

**IN THE HIGH COURT OF THE FEDERAL CAPITAL TERRITORY
IN THE ABUJA JUDICIAL DIVISION
HOLDEN AT JABI, ABUJA
BEFORE HIS LORDSHIP: HON. JUSTICE MUHAMMAD S. IDRIS
COURT: 28
DATE: 17TH MARCH, 2023**

**FCT/HC/CV/1418/2021
FCT/HC/M/2231/2022**

BETWEEN:-

- 1. BRIGHT OWIE**
- 2. PETER OBI**
- 3. OLIKO CHINEDU NWACHUKWU**
- 4. ADEGOKE LAMIDI**
- 5. BOLAJI BELLO ABRAHAM**
- 6. WANKA BABAYO JUBRIL**
- 7. IBRAHIM ALKALI**
- 8. BLESSING JAMES UMUNADI**
- 9. MUSTAPHA BASHIR ISMAIL**
- 10. ENOHUOMA CLINTON**
- 11. RAYVAN IBRAHIM YAJAJI**
- 12. ADEYANJU TUNJI**
- 13. ORAJIAKU VICTOR**
- 14. NSEOBONG UMANA**
- 15. IBRAHIM OLAIFA**
- 16. KIKIOWO ILEOWO OLAMIDE**

CLAIMANTS/RESPONDENTS

AND

RICHYGOLD HOMES AND ESTATE LIMITED DEFENDANT/APPLICANT

RULING

The Claimant Counsel filed a motion on notice same is brought pursuant to order 43 of the rules of this Court and section 72 of

the Sheriff and Civil Process Act and under the inherent jurisdiction of this Court. The motion was filed on the 8th December, 2022 dated the same day. The motion is seeking the reliefs of 4 prayers inclusive. And for such further order others as it appears in the face of the motion . The motion is with a motion No. M/2442/2022 same is attached with 12 paragraph affidavit deposed to by one Brighe Owie. Attach to same is exhibit a. In compliance with the rules of this Court the Applicant filed a written address Counsel adopt same as our oral argument and urge the Court to grant the application. The Respondent's Counsel choose not to file a counter affidavit instead reply on point of law where he said ----- it on the face of the Court the --- can be --- before the trial judge ----. But where the alleged ----- took place outside the Court premises the Court can not try the ----- see **DEDUM AND ANOR VS STATE (1975) 2 SC page 54**. Counsel urged the Court to dismiss the motion. Which reply on point of law the Applicant's Counsel maintained that it is trite that where application is not contained by opposite party it is deemed admitted Counsel urge the Court to grant its application . The issue to be consider by the Court is it proper place to enter the application. I did not intend to go into the merit of the application but to look at the circumstances of the application. There are two types of --- that Counsel in facie curie and that ---- -- --- facie curie.

In the case of the 2nd type a charge is necessary and the ----- is entitled to a fair hearing of the case against him. In both types of contempt, a trial is involved see **AWOSANYA VS BOUND OF**

CONSTITUTION 7 exam (175) 3 sc 47. What separate one from the other is the procedure to be adopted for ----- or action used in the face of the Court or in the cause of proceedings to be ---- they must be such as would interfere with the case ----- . A superior Court of recourse has inherent jurisdiction to deal with the ----- in facie curie and ----- . It must once again be emphasized that the summary paragraph of ---for - -- should however be used sparingly and only in certain cases see **OLU VS STATE (1970 I NLR 60)**. It is a power which a Court must of necessity possess, its usefulness, surely, depends on the wisdom and restraint with which it is exercised. However in cases of ----- ex facie curie there may be cases when the offence should be dealt with -----, but such heavy must be conducted in accordance with cardinal principle of fair hearing on the case must be one that falls ----- the alleged ---- are so - ---as to be ----- in contestable. Where the judge would have to rely on evidence or testimony of witness to events occurring outside his view and outside of his presence in Court he should not try the case himself. The matter must be placed before another judge where to useful procedure for the arrest, charge and prohibition of the offence must be follow. From the above judicial authorities cited the complainant alleged to have been

contained by the Respondent is exfecie curie -----
-----another judgment. consequently the motion or notice filed
is hereby dismiss----. To buttress my position see ***OMOIJALE VS
----- & ORS 91999 LPELR 2645 (SC) AG. EDO STATE &
ANOR VS CHURCH--- INDUSTRIES LTD & ANOR (2016)
LELR 41431 CA*** I so hold.

**HON. JUSTICE M.S IDRIS
(Presiding Judge)**

Appearance

I.P Ogbonna:- For the Applicant holding brief of Obunneme Agbo

T.P Tochukwu:- For the Defendant.