

**IN THE HIGH COURT OF FEDERAL CAPITAL TERRITORY
IN THE ABUJA JUDICIAL DIVISION
HOLDEN AT GWAGWALADA
ON THURSDAY THE 19TH OCTOBER, 2023**

SUIT NO: FCT/HC/GWD/CV/128/2022

BEFORE HIS LORDSHIP: HON. JUSTICE A. I. AKOBI

BETWEEN

RIFKATU JOHN HOSHEN.....CLAIMANT/RESPONDENT

AND

PERSONS UNKNOWN.....DEFENDANT/APPLICANT

R U L I N G

The claimant initiates this action against Persons unknown under order 2 rule 3(1) and 60 of the High Court of the Federal Capital Territory (Civil Procedure) Rules 2018. Following the action of the claimant, a motion on notice brought under Order 43 Rule 2, or. 13 Rule 10 and Order 60 Rule 5 of the Federal Capital Territory (Civil Procedure) Rules was filed on the 18th May, 2023 seeking the following reliefs:

- a. An Order granting leave to the Applicant sued as a person unknown to substitute and give his real name (which is **MR. SADAU MUHAMMAD MA'AJI**) in this proceeding and be heard in defence of this action.

- b. An Order directing the Claimant/Applicant to amend his process accordingly to reflect the name of applicant.
- c. Any other order(s) as this Honourable Court may deem fit to make in the circumstances of this matter.

The application is anchored on 6 grounds reproduced hereunder thus:

1. On the 8/05/2023, the originating processes in this suit were pasted on the gate of the applicant.
2. The hearing notice commended the defendant to appear in court the following day, the 9/5/2023 for hearing.
3. The aforesaid process described the Applicant as person unknown.
4. The rules of this court require such a defendant to seek leave to substitute his name if he desires to be heard.
5. The Applicant desires to be heard.
6. That the court has powers to grant this application.

The application has 8 paragraphs of supporting affidavit deposed to by the applicant himself and a written address wherein a sole issue is formulated thus: **Whether this court has power to grant this application in the overall interest of justice.** The learned counsel A.U.E Ogboi Esq in arguing the issue submitted that the grant of this application will afford the applicant the opportunity to be heard in line with section 36(1) of the constitution.

The rules of this court permits a person sue as unknown to bring application to have his name substituted for the unknown person. Our courts have defined an unknown person to mean natural person(s) whose name or real identity is not known to the Claimant at the time of instituting the action in Court. See **Monsuru Davies & Ors V. Prince Tajudeen Odofin & Ors (2017) LPELR-41871 (CA)**.

Order 13 rule 9 provide that where in land matter a claimant is unable to identify the person against who he claims, he may subject to the rules of this court describe such a person as a **person unknown**. The power of court to substitute such unknown person with identifiable person is provided for under order 13 rule 10 of the rules of this court and it states thus: "such a defendant under this rule may by leave of court apply for the substitution of his name as a defendant in lieu of the reference to him as a **person Unknown**."

Having considered the application of the applicant and the affidavit in support of same and after listening to the learned counsel's submission vis-à-vis the rules of this court, I hereby relying on order 13 rule 10 of the rules of this court, grant the application and ordered as prayed to wit:

1. Leave is granted to the applicant sued as a person unknown to substitute and give his real name (**MR. SADAU MUHAMMAD MA'AJI**) in this proceeding and be heard in defence of this action.

2. Having granted prayer 1 (one), the Claimant/Respondent is directed to amend his process to reflect the name of the applicant in this suit.
3. The Claimant/Respondent is directed to effect service of the amended process on the defendant to afford him the opportunity to defend himself.

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HON. JUSTICE A. I. AKOBI
19/10/2023