

$$\begin{aligned}
& \frac{, 1 \ 7 + ( \ + , * + \ \& 2 \ 8 \ 5 \ 7 \ 2 ) \ - \ 8 \ 6 \ 7 , \& ( \ 2 ) \ 7 + ( \ ) \ \& \ 7}{, 1 \ 7 + ( \ \$ \% 8 - \$ \ - \ 8 ' , \& , \$ / \ ' , \ 9 , \ 6 , \ 2 \ 1} \\
& \frac{+ \ 2 / ' ( \ 1 \ \$ \ 7 \ = \ 8 \% \$ \ \$ \% 8 - \$}{2 \ 1 \ ) \ 5 , ' \$ < \ 7 + ( ^7 + ' \$ < \ 2 ) \ - \$ \ 1 \ 8 \$ \ 5 <} \\
& \frac{\% ( \ ) \ 2 \ 5 ( \ + , \ 6 \ / \ 2 \ 5 ' \ 6 + , \ 3 \ \ + \ 2 \ 1 \ \ - \ 8 \ 6 \ 7 , \& ( \ . \ \ 1 \ \ 2 * \% \ 2 \ 1 \ 1}{- \ 8 ' * (} \\
& \frac{6 \ 8 , \ 7 \ 1 \ 2 \ \ ) \ \& \ 7 \ \ + \ \& \ 0}{}
\end{aligned}$$

% ( 7 : ( ( 1

\$ 1 '

5 8 / , 1 \*

**In this Suit the Claimant wants an Order of this Court for the recognition of the Arbitral Award published on the 5<sup>th</sup> day of October, 2020 by the AMDC. They supported the application with an Affidavit of 6 paragraphs. They attached a copy of the Contract Agreement between the parties entered into on the 30<sup>th</sup> of June, 2014. They also attached Letter of Appointment written to the Sole Arbitrator.**

**In their Whitten Address they raised an Issue for determination which is:**

**“Whether this Court has power to grant the prayer seeking registration or recognition of the Arbitral Award?”**

**They submitted that by the provision of S. 31 ACA LFN 2004 that the Court had and is imbued with the powers to grant this application. That the Applicant has attached a copy of the Contract Agreement and the CTC of the Arbitral Award as well as the Letter of Appointment of the Sole Arbitrator as required by the said S. 31 ACA. That an Arbitral Award must be recognized by a Court before it can be enforced. They referred to the case of:**

**Ras Pal Construction Company Limited V. FCDA  
(2001) 10 NWLR (PT. 722) 599**

**Commerce Assurance Limited V. Alli  
(1992) LPELR – 883 (SC)**

**That by virtue of Order 19 of the High Court Rules 2018 Judges are empowered to recognize settlement of matter via Arbitration. Judges/ Courts are empowered to recognize Arbitral Award so that such Award and Proceedings giving rise to the Award will not be a mere academic exercise. They urged Court to grant the application.**

**Upon receipt of the application the Respondent filed a Counter Affidavit of 13 paragraphs. The submitted**

**that there is no Suit – CV/ 2165 pending before this Court as the matter was transferred to Sokoto State based on an application by the then Attorney General Kwara State. That as at the time the matter was transferred that the Respondent had gone far with the Arbitration Proceeding at the Multi-door Court House (AMDC).**

**In their Written Address they raised an Issue for determination which is:**

**“Whether this Court has the requisite jurisdiction to entertain the present application as presently constituted?”**

**They submitted that this Court has no jurisdiction to do so They referred to the case of:**

**Oloba V. Akereja  
(1998) 13 NWLR (PT. 84) 508**

**Ayoola V. Okediran  
(2012) All FWLR (PT. 614) 125**

**That this Court has no competence to hear the application since the claim of the Applicant does not cloth the Court with the requisite jurisdiction and competence. They referred to the case of:**

**Nnoye V. Anyichie & 2 Ors  
(2005) 2 NWLR (PT. 910) 674**

**That the Suit giving rise to the application is no longer pending before this Court; thus this Court has no jurisdiction to entertain the said application. They urged Court to refuse the said application.**

**In their Reply to the Counter Affidavit the Applicant raised an Issue for determination which is:**

**“Whether this Court has the jurisdiction to entertain the application?”**

**They submitted that a party has the right to apply to a Court for recognition and enforcement of an Arbitral Award which is self executor, final, binding and conclusive between the parties. They referred to S. 31 (1) ACA and S. 157 ACA.**

**That in this application they have complied duly with the said provision of S. 31 which provides that “FCT High Court has the power to recognize and enforce Arbitral Award upon an application made to that effect.” They referred to the case of:**

**Ainabeholo V. ESUFMPCS Limited  
(2007) 2 NWLR (PT. 1017) 33 @ 37**

**That the submission of the Respondent that Court lacks jurisdiction because the matter was transferred to High Court Sokoto is misconstrued and total misunderstanding of Arbitration Process. That the**

**Motion filed is totally independent of the Suit transferred to Sokoto High Court as the said Motion is not premised on the transferred Suit. That by law ACA, the Applicant is required to file a Motion for the recognition of the Award. Such application can be filed in any High Court in Nigeria. Besides, such Motion does not require filing an Originating Process. They referred to S. 31 & 57 ACA; Order 13 Rule 1 of the High Court Rules.**

**That they have complied with the provision of the law in filing this Motion. That by S. 51 ACA an Applicant only files a Motion for recognition of Arbitral Award. So this application does not require Originating Process. It is independent of the Suit transferred to High Court Sokoto. Therefore the Court has jurisdiction to entertain it.**

**That the Respondent did not deny any fact in the Affidavit in support of this Motion and as such those facts are deemed admitted and they stand unchallenged. They relied on the cases of:**

**UNIC Ins V. Foidayi & Ors  
(2018) LPELR – 45571 (CA)**

**Nigerchem Ind. Limited V. Oladein  
(2006) All FWLR (PT. 37) 557**

**PAISC Limited V. Ikpees Impex Co. Limited**

**(2000) 3 NWLR (PT. 1182) 441**

**They urged Court to grant the Reliefs sought since the Affidavit was not challenged and facts thereon were all admitted**

**That where the dissatisfied party refuses to voluntarily obey the Award that the winning party brings an application under S. 31 (1) ACA and Order 13 Rule 1 and Order 43 Rule 5 of the High Court Rules. Such application is for enforcement of the Award. That the only room open to the dissatisfied party is to challenge it under S. 32 ACA. They referred to the case of:**

**Ras Pal Construction Co Limited V. FCDA**

**They urge Court to hold that it has jurisdiction to entertain the application.**

**COURT**

**Having summarized the stories of the parties for and against, can it be said that this Court has jurisdiction to entertain this Suit notwithstanding that the Suit was transferred to Sokoto High Court since 2019? Put differently, Does this Court have the jurisdiction entertain the application or Not? Again, should there be a head Suit before this application is heard? Does failure to have a head Origination Process makes this**

**application to be incompetent and Court therefore lacks jurisdiction?**

**Without answering the question seriatim, it is the humbly view of this Court that it has the requisite jurisdiction to entertain the Application and to Rule on it. Again, the application is competent. It does not need to be heralded by any Suit or the Suit that has been transferred to Sokoto High Court. Like the Applicant submitted, this Suit is totally independent of this application.**

**This Court totally aligns with the submission of the Applicant already summarized about. The said submission is adopted as it is set here under seriatim. So there is no point repeating same here.**

**By S. 31 (1) ACA a winning party has a right and is empowered to apply to Court for the recognition of an Arbitrary Award where the other party fails or refuses to voluntarily obey the Award. Such application for the recognition of the Award is by Motion on Notice to the other party. If such a party wants to challenge the Award it can do so under S. 32. It is not by filing a Counter Affidavit to challenge the Motion for Recognition and Enforcement of the Award.**

**It is imperative to state that Arbitration is not like Litigation. It is in a class of its own. It is independent**

**of any Suit filed in respect of the subject matter of the Arbitration for as long as there is an Arbitrational Clause in the Agreement of the parties. That is the Rules. So an Application for Recognition of Arbitral Award as in this case is independent of the Suit in Sokoto High Court. Besides, from the Affidavit of the Respondent it is evidently clear that as at the time of the Order transferring Suit CV/ 2165/ 17 to Sokoto State High Court, the Sokoto State Government had already gone far with the Arbitration Tribunal with the Applicant. That shows that the outcome of the Arbitration which is the Award is binding on it having so participated. Again, a look at the names of the other parties in the said Suit it shows that the application to transfer the Suit was made by the Attorney-General Kwara which is the other remaining party in the Suit. The Applicant and the Sokoto State Government having subscribed to the Arbitral Proceeding they are bound by it. Besides, the Award is always binding on the parties who had subscribed to it until set Aside. But there is no evidence to show that the Award had been challenged or had been Set Aside by any Court of competent jurisdiction.**

**Most importantly, an Application for Recognition of Domestic Award can be filed at the seat of Arbitration for enforcement. The place may be different. In this**



**case, the seat of Arbitration is Nigeria. So the Applicant has a right to file it in any High Court in any State in Nigeria. So filing this application for recognition of the Award in FCT High Court is the right thing to do. Based on that fact, this Court has the jurisdiction to entertain the application to recognize the Award more so where there is no challenge of the Arbitration even as I deliver this Ruling. Since that is the case, this Court has jurisdiction. So this Court holds.**

**The Applicant has totally complied with the requirement for applying for recognition of Arbitral Tribunal which is a Formal Application on Notice supported by Affidavit, attaching authenticated original Award or duly Certified True Copy (CTC). The Applicant attached a CTC of the Award. It also attached the original Arbitration Agreement showing that parties had agreed to Arbitrate any dispute emanating from the Agreement.**

**Again, S. 57 ACA shows that such application can be made in any High Court of any State or FCT. By the said provision of SS 31 & 57 ACA the High Court FCT has jurisdiction to entertain this application.**

**Arbitral Proceeding just like Arbitration Clause is totally independent of the Contract Agreement in that**

**even where a contract fails the right to Arbitrate still exists and stands.**

**The matter transferred to Sokoto High Court has nothing to do with the Application for Recognition of Award. This Motion is not premised on the transferred case.**

**It is not in doubt that the Respondent participated in the Arbitration Procedure. It is not in doubt that it is aware of the existence of the Arbitral Award. It is not in doubt that its representative signed the contract in which the parties agreed to Arbitrate. It is also clear that it has not challenged the Award and as such, the Award sought to be recognized is binding and still subsisting having not been challenged by the Respondent. Besides, the Respondent has no evidence before this Court to show that it is challenging or is in the process or has initiated any procedure for challenge of the Award as set out in S. 32 ACA.**

**Most importantly, the Respondent did not traverse the averments in the Affidavit in support of this application and as such has admitted all those facts. So those facts are unchallenged and unrebutted. So this Court holds.**

**From the above, it is very clear that this Court has jurisdiction to entertain this application. There is also**

**merit in this application and the Court hereby grants  
the application as prayed**

**This is the Ruling of this Court.**

**Delivered today the \_\_\_\_ day of \_\_\_\_\_ 2023 by me.**

HON. JUDGE