

**IN THE HIGH COURT OF JUSTICE OF THE F.C.T.**

**IN THE ABUJA JUDICIAL DIVISION**

**HOLDEN AT KUBWA, ABUJA**

**ON MONDAY THE 4<sup>TH</sup> DAY OF APRIL, 2022**

**BEFORE HIS LORDSHIP: HON. JUSTICE K. N.  
OGBONNAYA**

**JUDGE**

**SUIT NO.: FCT/HC/CV/2771/2019**

**BETWEEN:**

**HIGH CHIEF ABIOLA OGUNDOKUN } ----- CLAIMANT**

**AND**

**1. VANGUARD MEDIA LIMITED  
2. VANGUARD NEWS PAPER  
3. THE EDITOR, VANGUARD NEWS PAPER  
4. HIGH CHIEF NAVY CAPT. A.B. AJUMOGOBIA  
5. CHIEF IBIM MASI BRIGGS  
6. CHIEF JACOB KARIBI DOKUBO BRIGGS  
7. CHIEF SOLOMON W.Y. BRIGGS  
8. CHIEF FESTUS DANIEL CAPTAIN BRIGGS  
9. CHIEF DUMO JOHN MEMBERE  
10. CHIEF C.F.L. MEMBERE** } ----- DEFENDANTS

**BENCH RULING:**

In this Preliminary Objection the 4<sup>th</sup> – 10<sup>th</sup> Defendants' Counsel is challenging the Court's jurisdiction because in filing the Writ, the Plaintiff Counsel did not sign. That the Writ was not signed by Boniface Basse for the Aare Olumuyiwa Akinboro SAN of Akinboro & Co.

In the Writ they listed the names of the Counsel in the Akinboro SAN & Co. Chambers and Boniface Bassey who signed for the Olumuyiwa Akinboro SAN & Co. was listed as one of the Counsel. In fact, in the line of Counsel listed, Boniface Bassey is the 2<sup>nd</sup> in the list.

The very learned gentleman for the 4<sup>th</sup> – 10<sup>th</sup> Defendants had wanted the Court to hands off the case because it did not comply with the S. 97 of Sheriffs and Civil Process Act which states that “any Writ to be served outside jurisdiction should be marked stating that it is for service outside jurisdiction.” He anchored on S. 97 and stated that it is superior to the Rules of this Court and Court should bow to it. He stated about Supreme Court decision but did not state any case in particular though he listed some cases in his Reply.

In a fiery Counter, the Plaintiff Counsel fired that the Writ was marked “Concurrent” and that they did so based on the fact that some of the Defendants are within jurisdiction. That S. 98 covers that. That marking it concurrent suffices. That the Preliminary Objection is an abuse of Court Process. That the 4<sup>th</sup> – 10 Defendants had earlier in the case before my brother Halilu J. brought similar Preliminary Objection which was dismissed. He urged Court to award One Million Naira (₦1, 000,000.00) as cost against the 4<sup>th</sup> – 10<sup>th</sup> Defendants’ Counsel.

The 1<sup>st</sup> – 3<sup>rd</sup> Defendants’ Counsel had naturally aligned with the 4<sup>th</sup> – 10<sup>th</sup> Defendants’ Counsel though he did not file anything in response to the Preliminary Objection. This Court allowed him chance to have a say

based on the exercise of the discretionary power of this Court to do substantial justice and allow fair-hearing. Besides, 1<sup>st</sup> – 3<sup>rd</sup> Defendants are parties in the Suit.

The 4<sup>th</sup> – 10<sup>th</sup> Defendants' Counsel did not say anything on issue of cost.

But the question is, should this Court hands off this case just because a Counsel in the Chamber of Akinboro & Co. signed for Olumuyiwa Akinboro SAN and as such ask the parties to go home and matter closed bearing in mind that proceeding of Court is not casting iron and steel that even if it is, the ever hot furnace discretionary power of the Court can melt it. Will justice be seen, heard, tweeted, whatsapped and announced to have been done and done best if the Court decides to do same bearing in mind that the Court have been called upon to dispense substantial justice timeously? Will doing so be in the best interest of justice in this case that had been pending in Court since 2019 and is still in the Preliminary stage three (3) years after the matter was filed, and also bearing in mind that parties have taken bold steps by filing and exchanging their pleading?

Again, should this Court jettison everything done in the previous Court including Processes filed in that Court by the parties as the 4<sup>th</sup> – 10<sup>th</sup> Defendants' Counsel had submitted bearing in mind that the matter was transferred and it is starting de novo? Will doing so be in the best interest of dispensing justice timeously?

Not answering seriatim, this Court will not decline jurisdiction merely because the Boniface Basse Esq. signed the Writ. It should have been a different thing if

Boniface Bassey Esq. is not listed as one of the Counsel in the Chambers that filed the matter. Be it known to all and sundry that it is the Chamber that appears before the Court. The names of the Counsel are only the human face to the Chambers. Such human face can be anyone listed in the document as Counsel in the Chambers. That is why Court gives audience to any Counsel from a Chamber who announces appearance for such Chambers.

The Court would have had a different view if the Writ was not signed. In that case, it will be that the error and omission are fundamental and as such the Court can decline jurisdiction. Since the person that signed the document is a qualified lawyer in that Chambers and also known, this Court will on that basis hold that the Writ is not defective.

On the issue of non-compliance with S. 97 of the Sheriffs and Civil Process Act, this Court holds that since there are other Defendants who are within jurisdiction, the right thing to do is to have the Writ marked “concurrent” which is what the Plaintiff did. That is the right thing. So this Court holds.

The very essence of S. 98 of the Sheriffs and Civil Process Act is to take care of Writ – where some parties are within jurisdiction.

The intendment and sense behind Court marking a Writ “concurrent” is that it will look absurd to serve a party within the jurisdiction with a Writ marked with this phrase: “This Writ is to be served outside jurisdiction of this Court.” That is the intendment and wisdom of the

drafters of the Sheriffs and Civil Process Act. That is why S. 98 of the Sheriffs and Civil Process Act as relied on by the Plaintiff Counsel is the right and appropriate thing to do.

This Court therefore holds that it shall not decline jurisdiction based on that because, it has the requisite jurisdiction to determine the issue. The Preliminary Objection is based on mere technicality which is no longer in vogue and no longer part of our jurisprudence.

Most importantly, the nature of the claim in this Suit is what this Court has jurisdiction to entertain. Therefore this Court shall NOT decline jurisdiction because from all indication it has jurisdiction.

No cost awarded.

Based on that, the Preliminary Objection lacks merit and is therefore DISMISSED.

Once a matter is transferred from a Judge to another Judge, the Proceeding in the previous Court ends. But Processes filed already is still valid and there is no need to file new Processes. Besides, the High Court of FCT is one Court with several Judges, many Court with several divisions.

As an aside, given the global express of doing things, it is my humble view that the practice of starting proceeding de novo in a mind is overdue to be changed in that where there is a transfer by reason of death, incapacity or whatever, the new Court should start where the previous Court stopped.

Preliminary Objection lacks merit. It is therefore  
DISMISSED.

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

**Delivered today the \_\_\_\_ day of \_\_\_\_\_ 20222 by  
me.**

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**K.N. OGBONNAYA  
HON. JUDGE**