

**IN THE HIGH COURT OF THE FEDERAL CAPITAL TERRITORY
IN THE ABUJA JUDICIAL DIVISION
HOLDEN AT MAITAMA – ABUJA**

BEFORE HIS LORDSHIP: HON. JUSTICE. H. MU’AZU

SUIT NO: FCT/HC/CV/851/2022

DELIVERED ON THE 08/05/2024

BETWEEN:

AIR COMMODORE PETER O. GBUJIE (RTD).....APPLICANT

AND

- 1. ABDULKARIM CHUKKOL
OFFICER, DIRECTOR OF OPERATIONS FOR THE
EXECUTIVE CHAIRMAN, ECONOMIC AND FINANCIAL
CRIMES COMMISSION (EFCC)**
 - 2. RUKIYA IBRAHIM
OFFICER AND SUB-TEAM LEADER (ST2) ECONOMIC
AND FINANCIAL CRIMES COMMISSION (EFCC)**
 - 3. CHIDI NWEKE
STAFF, EFCC**
 - 4. ABDULRASHEED BAWA
THE EXECUTIVE CHAIRMAN ECONOMIC
AND FINANCIAL CRIMES COMMISSION (EFCC)**
-RESPONDENTS**

JUDGMENT

The Applicant herein, by a motion on notice brought pursuant to order 2 rules (1), (2), (3) and (4) of the fundamental rights (enforcement procedure) rules 2009, sections 34, 35, 36, 38, 40 and 46 of the 1999 constitution of the federal republic of Nigeria (as amended) and under the inherent jurisdiction of this court is praying the court for the following orders:

a. AN ORDER for the enforcement of the Applicant's fundamental rights to Personal Liberty, Private and Family Life, Freedom of Movement and Dignity of Persons.

b. A DECLARATION that the constant harassments, intimidations, threats of arrest and detention, threats to bring about a trump up criminal complaints against the Applicant by the Respondents over a contract agreement that had existed before the Applicant was appointed a Director of the Company (GAT Techno Dynamics Ltd) is tantamount to a violation of the Applicant's fundamental rights.

c. A DECLARATION that inviting, harassing, arresting and detaining the Applicant over a contract agreement that had existed before the Applicant was appointed a Director of the Company (GAT Techno Dynamics Ltd) for the purpose of coercing and intimidating the Applicant to make an undertaking in which to withdraw his pending application at the Supreme Court Suit No. SC/1384/2019 is illegal, unlawful and ultra vires the powers of the Respondents.

d. AN ORDER OF INJUNCTION restraining the Respondents, whether by themselves, their agents,

associates, nominees, servants or any other persons whosever described and called from arresting, harassing, detaining, disturbing, curtailing or seeking to curtail, interrupting, or inviting for questions or interfering with the Applicant's right to Personal Liberty, Private and Family Life, Freedom of Movement, and Dignity of Person in connection with the above-mentioned contract that was lawfully executed, delivered and accepted by the Nigerian Air Force and the equipment operationally in use for about eight (8) years without any criminal taint amount to infringement of the Applicant's rights.

*e. **AN ORDER** that the sum of Five Hundred Million Naira (N500,000,000.00) only, being aggravated and general damages against each of the Respondents for violation of the Applicant's fundamental rights.*

*f. **AND FOR** such or other Orders this Honourable Court may deem fit to make in the circumstances.*

In support of the Application, a Statement pursuant to Order II Rule 3 of the Fundamental Right (enforcement procedure) Rules, 2009 was filed enumerating the following grounds upon which the reliefs are sought:

a. The Applicant is a citizen of Nigeria and a retired officer of the Nigerian Air Force who has not committed any offence known to law.

b. The Respondents, particularly the 1st, 2nd and 3rd have continuously been harassing and threatening to arrest, detain, humiliate and subject the Applicant to an object of caricature on account of issues relating to contract entered by Wing Commander Samuel Onuiri (Rtd), the Director and Chairman who represented GAT Techno Dynamics Ltd as the seller as contained in the contract.

c. The Respondents have at all material times failed and refused to invite the Director and Chairman, Wing Commander Samuel Onuiri (Rtd) in the event of any concern, but instead have continued to harass, intimidate and humiliate the Applicant whose appointment as a Director was after the contract had been signed.

d. The genesis of this matter is that the Applicant, in 2018 contested for the then Imo State Governorship Primary Election against Senator Hope Uzodinma and others under the platform of the All Progressives Congress (APC).

e. The result of the said Governorship Primary Election Report states that, Air Commodore Peter O.

Gbujie (Rtd), the Applicant scored 9,351 votes while Senator Hope Uzodinma scored 9,159 votes.

f. That since the release of the said Governorship Primary Election Report in 2018, the Applicant has been contesting and questioning the sudden emergence and declaration of Senator Hope Uzodinma as the winner after scoring less than the Applicant.

g. Again, and most recently, the Applicant filed a motion seeking to be made not only a joinder in Suit No: SC/1384/2019, but also to be declared as the winner of the then Governorship Election.

h. Following the pendency of the said Suit No: SC/1384/2019, the Applicant has been facing all manners of attacks, harassments, blackmail, coercion, and threat to life for the purpose of coercing the Applicant to write an undertaking to withdraw his application at the Supreme Court and also to withdraw from nursing his political aspiration to become a Governor when it is affirmed that Senator Hope Uzodinma is aspiring for his 2nd tenure in office.

i. The Applicant did not commit any crime warranting the incessant and continuous threats of arrest and detention by the Respondents rather the

Applicant's only offence is that he refused to withdraw his application at the Supreme Court.

j. The harassments, phone calls, invitations, threat of arrest and detention of the Applicant by the Respondents, particularly the 1st, 2nd and 3rd since the aforesaid application at the Supreme Court are unjustifiable and a flagrant violation of his fundamental rights of the Applicant which have been triggered for political reason.

In the Affidavit of the Applicant filed in support of the Application, Applicant averred inter-alia these relevant facts:

That I am the deponent to this Affidavit and the Applicant in the present application, by virtue of which I am conversant with the facts herein deposed.

That the genesis of this matter is that in 2018, I contested the then Imo State Governorship Primary Election against Senator Hope Uzodinma and others, under the platform of the All Progressives Congress (APC).

That the result of the said election as shown by the Governorship Primary Election Report states that Air Commodore Peter O. Gbujie (Rtd), my humble self scored a total number of 9,351 votes while Senator

*Hope Uzodinma, scored 9,159 votes, making me second after Uche Nwosu in the said election. The extract of the said Governorship Primary Election Report is hereby attached, and marked as **EXHIBIT (A1)**.*

*That most recently again, in my continuous pursuit of challenging the said sudden declaration of the said result in favour of Senator Hope Uzodinma, I filed a motion at the Supreme Court, seeking not only to be joined in Suit No. SC/1384/2019, but also, to be declared as the authentic winner of the 2019 Governorship Election following the disqualification of Uche Nwosu in the pending suit. The Motion on Notice joining me in Suit No. SC/1384/2019 is hereby attached and marked as **EXHIBIT (A2)**.*

That since the pendency of the said Suit No. SC/1384/2019, in which all the Respondents were served, I have been facing all manners of attacks, harassments, intimidations, disturbances, coercion and threat to my life, blackmails in which I was one time accused of defecting to All Progressives Grand Alliance (APGA), the purpose of the blackmailers producing APGA Identity Card in my name is to

*coerce my Party (APC) to disown me and disregard my application at the Supreme Court. The Horn Newspaper originating from Imo State evidencing part of the blackmail against me is hereby annexed and marked as **EXHIBIT (A3)**.*

10. Surprisingly and because of my determination not to withdraw my application at the Supreme Court, as I was advised by different quarters in Imo State and elsewhere, I have been subjected to smell hell on earth by the Respondents, and for fear of total extermination of my life, I stopped travelling to my home town in Imo State.

*When the threats of my life continued, I contacted my lawyer, S.N. Nzeh Esq, who on 14th July, 2022 wrote to the Deputy Inspector General of Police (DIG), Force CID, Abuja seeking for intervention and above all, for the protection of my life. The said Petition from S.N. Nzeh Chambers to the DIG is hereby attached and marked as **EXHIBIT (A4)**.*

That suddenly, sometime in September 2022, the Chief of the Air Staff called me and told me that there was a letter addressed to him for me from the Economic and Financial Crimes Commission

(EFCC) requesting him to invite me to their office. He dismissed them by telling them that the contract in which they are trying to resurrect between GAT Techno Dynamics Ltd and the Nigerian Air Force was then investigated and concluded. He further made them to understand that it was Wing Commander Samuel Onuiri (Rtd) that represented GAT Techno Dynamics Ltd and not my humble self. However,, the Chief of the Air Staff forwarded the said letter addressed to him for me from the EFCC.. The said letter addressed to the Chief of the Air Staff dated 29th September, 2022 is hereby attached and marked as EXHIBIT (A5).

When the threats continued despite the fact that the Respondents knew from the facts that the said contract was entered before I was appointed a Director of GAT Techno Dynamic Ltd, on 20th October 2022., Century Associates on my behalf petitioned the National Security Adviser to the President, regarding the way I was being witch-hunted for an already concluded contract executed by GAT Techno Dynamics Ltd. However, the lawyer who wrote the petition died mysteriously a few days thereafter.. The letter from Century Associates to the

National Security Adviser is hereby annexed as EXHIBIT (A6).

*14. That GAT Techno Dynamics Ltd is a company incorporated in Nigeria whose business address is No. 1 Thomas Sankara Street,, Asokoro, Abuja. The Certificate of Incorporation of GAT Techno Dynamics is hereby attached as **EXHIBIT (A7)**.*

15. That the Directors of GAT Techno Dynamics Ltd are Wing Commander Samuel Onuiri (Rtd), 1st Director and Chairman of the Company and Air Commodore Peter O. Gbujie (Rtd), myself who became a Director after the contract had been signed.

16. It is true that sometime in April 2014, GAT Techno Dynamics Ltd entered into a Contract Agreement with the Nigerian Air Force in which Wing Commander Samuel Onuiri (Rtd) was Director and Chairman that signed on behalf of GAT Techno Dynamics Ltd (seller) of the said contract.

18. That the terms and conditions of the said contract were for the Seller, GAT Techno Dynamics Ltd to supply to the Buyer, the Nigerian Air Force, two (2) units of Mobile Low Level Radar System (36D6M) for the use of the Nigerian Air Force.

That under the said Contract, it was Wing Commander Samuel Onuiri (Rtd) who was the Director and Chairman of the Company that signed on behalf of GAT Techno Dynamics Ltd as the Seller, while the then Chief of the Air Staff signed on behalf of the Buyer, the Nigerian Air Force. The Contract between the parties evidencing Wing Commander Samuel Onuiri (Rtd) and the then Chief of the Air Staff as signatories respectively is hereby annexed and marked as **EXHIBIT (A8)**.

19. That it is true that the said contract was successfully executed and delivered to the Buyer and a **CERTIFICATE OF COMPLETION AND ACCEPTANCE** including the End-User Certificate showing that all the deliverables were delivered in line with the terms and conditions of the contract are hereby attached and marked as **EXHIBITS (A9) & (A10)**.

20. That shortly after the execution of the said contract by the parties, on 9th November 2015, GAT Techno Dynamics Ltd, through a letter addressed to Wing Commander Samuel Onuiri (Rtd) was invited to appear before the Presidential Committee on Defence Equipment Procurement. Investigations and conclusions were finally made by the Committee as mentioned above. The said letter addressed to Wing Commander Samuel Onuiri (Rtd) and not my humble self by the Presidential Panel is hereby attached as **EXHIBIT (A11)**.

21. That in the course of the conclusion of the said Investigation and Audit by the Presidential Panel, it was discovered that GAT Techno Dynamics Ltd successfully executed and delivered the said contract in line with the agreement. However, GAT Techno Dynamics Ltd was among the companies forwarded to the EFCC to ascertain whether or not the taxes were paid. The investigators then were wholly satisfied that GAT Techno Dynamics Ltd paid the taxes in accordance with the terms and conditions of the said contract. Extract evidencing the payment of the said taxes is hereby attached and marked **EXHIBIT (A12)**.

That the genesis of all these embarrassments including the aspect of digging into the already concluded contract and equipment put in operational use for about 8 years are because I refused to withdraw my application in Suit No: SC/1384/2019 at the Supreme Court in defiance of all malicious and intimidating pressures.

23. That even if the Respondents are keen to re-investigate the said contract executed by GAT Techno Dynamics Ltd, they should have invited Wing Commander Samuel Onuiri (Rtd), the Director and Chairman of the Company who represented and signed for the Company and not myself. But till this moment, the Respondents singled me out for political reasons.

24. That the invitations of the Respondents to me have always been on phone and they have vehemently stated that they will apprehend me and deal with me.

25. That instead of the Respondents to follow the path of justice and reasoning in view of my application before the Supreme Court, on 29th November 2022, in my absence, the 1st-3rd Respondents laid siege in front of my gate questioning my whereabouts. Their

conduct created havoc and fear in the lives of my entire family members, especially my three little kids in which I equally complained to the Police on my arrival.

26. That the said sponsored agents who were at my gate secretly told my family members to compel me to withdraw the pending Suit at the Supreme Court and also withdraw my Governorship ambition for my own good.

That despite the fact that the Respondents knew that I was not a signatory to the contract, they kept maintaining their malicious acts against me which is politically triggered, thereby infringing and encroaching on my human rights.

28. That as a matter of fact, the 1st and 3rd Respondents have been a bug on my mobile line, buzzing on same ceaselessly and dishing out all manners of threats against me.

29. That I have not committed any offence known to law to warrant these magnitude of attacks

intimidation, threats to my life which have caused me both mental and psychological trauma.

30. That my tormentors and the instigators of the breach of my fundamental rights are now harassing and attacking me repeatedly for political scores, while Wing Commander Samuel Onuiri (Rtd), the Director and Chairman of the Company who represented and signed the said contract on behalf of the Company has not been called or invited at any time.

31. That the 1st, 2nd and 3rd Respondents are determined and have perfected plans with their instigators who are behind the scene to use the machinery of force to harass, intimidate, coerce and frame me up in connection with the said contract that was purely civil, lawfully executed, delivered and accepted by the Nigerian Air Force (Buyer) without any taint of criminality whatsoever.

32. That the Respondents have violated my fundamental rights dehumanised me as less human and are still set to violate them further and subject me to further object of caricature unless restrained by this Honourable Court.

33. That it is the interest of justice to restrain the Respondents particularly the 1st, 2nd and 3rd from inviting, disturbing, arresting, detaining, interfering, raising malicious calls on me on the basis of political motives over a contract that was not only executed but entered into before I was appointed Director of the said company.

In the written address in support of the Application, learned counsel for the Applicant S. N. Nzeh Esq, submitted two issues for determination, to wit:

- 1. Whether the fundamental rights of the Applicant to Personal Liberty, Right to Peaceful Assembly and Association, Freedom of Movement and dignity of person, having been breached, this Honourable Court ought not to intervene by an order of injunction against the Respondents?**

- 2. Whether the Applicant is entitled to the reliefs sought from the Honourable Court in view of the circumstances?**

Learned counsel argued the issues citing statutes and decided cases in urging the court to grant the Applicant reliefs.

The Respondents in opposition to the Applicant's motion has filed a 15 paragraph Counter Affidavit deposed to by Detective Yusuf Mojeed, an investigating officer with the Economic and Financial Crimes Commission. The deponent averred inter-alia as follows:

4. I have seen and read the Applicant's affidavit in support of his Motion on Notice, sworn to on 15th December, 2022, and I know as a fact that the depositions contained in paragraphs 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 19, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32 & 33 are false, intentionally deposed to mislead this Honourable Court.

*5. I know as a fact that, on 14th December, 2015, the Office of the 4th Respondent herein received a petition from the Office of the National Security Adviser (ONSA), against Gat Techno Dynamics Limited. The petition forwarded a report of Committee on Audit of Defence Equipment Procurement (CADEP). The said petition is hereby attached and marked as **Exhibit EFCC-1**.*

*6. That the said petition alleged inter-alia that **Gat Techno Dynamics Limited** was awarded a contract by the Office of the National Security Adviser (ONSA), to procure 2 nos. 36D6 Radar for Nigerian*

Air-force (NAF) at the rate of \$33,000,000.00 (Thirty Three Million Dollars).

7. I know as a fact that following the receipt of the above petition, same was analyzed and found worthy of investigation .the investigations conducted revealed;

*a. That Gat **Techno Dynamics Limited** was incorporated on 21st March, 2011 with Peter Gbujie (the Applicant), Ogunmefun Adebowale and Oyeonu Evelyn as Directors and Shareholders of the company.*

*b. That **Gat Techno Dynamics Limited** was sometime in April 2014 awarded a contract for the supply of 2 units of mobile low level radar by the Nigerian Air force at the cost of **Thirty Three Million US Dollar** (inclusive of 5%VAT & 5% With Holding Tax) fully paid on 22nd May, 2014 into Gat Techno Dynamics Limited's United States Dollar account no 2017237439 domiciled with First Bank of Nigeria.*

c. That a letter addressed to 4th Respondent from the Nigerian Air Force revealed that Gat Techno Dynamics Limited, purchased a sub-standard 36D6 Radar without Identification Friend or Foe capability which substantially degraded the operational value.

*The said letter is hereby attached and marked Exhibit as **EFCC 2**.*

*d. That following the findings above, an invitation was sent to the Applicant sometime in February, 2016 and he reported on 5th February, 2016. The Applicant was shown the copy of the allegations and volunteered his extra judicial statement. The said statement is hereby attached and marked as **Exhibit EFCC 3**.*

e. The Applicant stated that his company got a contract from the Nigeria Air-force for the supply of standard 36D6 Radar and same was supplied though without having Identification Friend or Foe (IFF) capabilities.

f. I know as a fact that further to paragraph 7(d) above, the Applicant was immediately granted bail and released on the same day. The bail conditions granted to the Applicant requires him to avail himself at the office of the 4th Respondent whenever he is needed to make further explanation or comment on the findings of the investigation.

g. I know as a fact that in September, 2022, the 3rd Respondent had on behalf of the 4th Respondent extended an invitation to the Applicant via a text

*message inviting the Applicant for further interview. The Applicant instead of honoring the invitation in line with his bail condition responded to the text message by insulting the 3rd Respondent calling him an idiot and that a General cannot be picked on the street. The printed text a message is hereby attached and marked as **Exhibit EFCC 4**.*

*h. I know that following the insults on the Respondents by the Applicant and his demand to have a formal letter of invitation, the Applicant was informed that the address **he** earlier supplied to the Respondents cannot be traced and was requested to forward a valid address which he **failed** to do so. Nonetheless, the Respondents sent a formal letter of invitation to the Applicant through the Chief of Air staff which the Applicant refused to honor the invitation.*

*8. I know that contrary to paragraphs 13 of the Applicant's affidavit, the Applicant has been part and parcel of **Gat Techno Dynamics Limited** and the signatory to Gat Techno Dynamics Limited's **United States Dollar** account no 2017237439 domiciled with **First Bank of Nigeria** where the sum of **Thirty Three Million** US Dollar (inclusive of 5% VAT & 5% With Holding Tax) was paid into.*

9. *That further to paragraph 8 above and contrary to paragraphs 3, 4, 5, 7, 8, 9, 10, 11, 28, 29, 30 31, 32, 33, 34, 35 and 36 of the Applicant's affidavit, the Applicant was never detained, harassed, intimidated or being harassed by the officers of the Respondents. Rather the Applicant harassed and insulted the Respondents.*

10. *That contrary to paragraphs 19, 20 and 21 of the Applicant's affidavit, the contract was not fully executed. The 36D6 Radars supplied were sub-standard, without Identification Friend or Foe capability which substantially degraded the operational value.*

11. *That contrary to paragraphs 22 of the Applicant's affidavit, the petition was not politically motivated but rather the desire by the National security adviser to the President, to hold every one accountable irrespective of their social or political class.*

12. *I know that the Respondents would be greatly prejudiced by the grant of this Application as the Applicant's rights have not in any way been infringed or likely to be infringed by the officers of the 1st Respondent.*

In the Respondents' written address in support of their Counter Affidavit in opposition to the Applicant's Originating motion on notice, formulated two issues for determination, to wit;

1. Whether the Applicant have made out a case to entitle this Honourable Court to interfere with the statutory powers of the Respondent to investigate any allegation of fraud and to prosecute same where a prima facie evidence is established.

2. Whether in the circumstance of this case, Applicant is entitled to be granted the reliefs sought.

Learned counsel argued the two issues together in urging the court to dismiss the application.

In the Applicant's further and better affidavit, it was averred thus:

*5. The Respondents Counter-affidavit in paragraph 5 is false. However, on 14th December, 2015, the office of the National Security Adviser forwarded to the 4th Respondent what it referred as, **SPECIAL REPORT ON PROCUREMENT OF RADAR FOR THE NIGERIAN AIR FORCE BY GAT TECHNO***

DYNAMICS LIMITED as contained in (Exhibit EFCC 1) of Respondents Counter-affidavit and NOT as a petition as falsely exaggerated by the Respondents. However, in the said Report, the office of the National Security Adviser attached all the details in relation to the said Report, including a contract agreement entered between Nigerian Air Force, represented by Chief of Air Staff and Gat Techno Dynamics Limited, represented by Wing Commander Samuel Onuiri (RTD). In the said Exhibit (EFCC 1) of the Respondents, an attached Invoice dated 8th April 2014 on behalf of Gat Techno Dynamics Limited to the National Security Adviser was duly signed by Wing Commander Samuel Onuiri.,

6. That paragraph 6 of the counter- affidavit is true.

7. In answer to paragraph 7 of the Respondents Counter-affidavit, I wish to state categorically that the said invitation to me that started in 2016 was further amplified in 2020, 2021 and continued till 2022 as contained on paragraph 5 the Respondents counter-affidavit. It was politically motivated in order to trap me down because other shareholders, including Wing commander Samuel Onuiri (RTD) who represented and entered the said contract on

behalf of Gat Techno were never invited by the Respondents for questioning except my humble self.

Further to the Respondents averments on paragraph 7, I wish to state as follows:

a.. That paragraph 7(a) of the said averment is false. However, on 17th June 2014, I was appointed as one of the directors of Gat Techno Dynamics Limited after the said contract between the Nigerian Air Force and Gat Techno Dynamics had been entered. Upon all these facts within the knowledge of the Respondents, they still failed at all times to invite or harass the parties to the contract but deliberately I singled me out for humiliation even when they did not find anything wrong against me.

b.. Paragraph 7 (c) of the Respondents averment is False. Contrary to the averment in this paragraph, the Exhibit (EFCC 2) as contained in Respondents Counter- affidavit, dated sometime in 2022 was addressed to the 4th Respondent by the Nigerian Air Force. It was categorically stated to be: "IN RESPONSE TO THE INQUIRY ON THE CONTRACT AWARDED TO GAT TECHNO DYNAMICS LIMITED TO SUPPLY 2

UNITS OF MOBILE LOW-LEVEL RADAR". The said Exhibit (EFCC 2) as attached in the counter-affidavit did not in any way allege that Gat Techno Dynamics Limited purchased substandard Radar. The Nigerian Air Force went further in paragraph 2 of the said Exhibit (EFCC 2), and stated that Nigerian Air Force has no record of the said contract but however, referred the 4th Respondent to contact the officer that was in conversant with the said contract.

c. Sequel to the averment as outlined in paragraph 7 (d) of the counter-affidavit, it is true that I was invited and compelled to write and answer their questions. without my lawyer because they did not mention the option of having my lawyer around me throughout the periods of the interrogations.

d. The averment as stated in paragraph 7 (e) of the counter-affidavit is false. In the course of my statement dated 15th February 2016, as contained in Exhibit (EFCC 3) of the counter-affidavit, I stated that the radars were supplied as brand new as they are still functioning till

date. I equally stated that there was an issue of the radars not having IFF as optional component which, however, was not part of the said contract entered by the parties.

e. The Respondents statement as contained in page 7 (f) of the counter-affidavit is false. I was compelled to remain in their office for donkey hours before I was granted bail and released very late. Their action subjected me to a kind of human degradation, psychological harm and mental torture over a contract entered and signed by wing commander Samuel Onuiri (RTD) and chief of Air Staff respectively. I felt extremely dehumanised when I discovered that the parties to the said contract were neither invited nor harassed whereas I was singled out for punishment for political motives

8. It is true that I was signatory to the said account as contained on paragraph 8 of Respondents' counter-affidavit. However,, the Respondents have failed to adduce any wrong doing occasioned by me in the course of their lopsided investigations for over a period of 10 years.

I have carefully gone through the reliefs sought and the Grounds upon which they are predicated, together with the affidavit, further affidavit and written address in support of the application, on the one hand and the Counter affidavit and written address of the Respondents on the other hand.

The issue, *“Whether the Applicant had made out a case to entitle him to the reliefs sought”* is distilled for determination of the Application.

It is worthy to note that reliefs (b) and (c) as prayed for by the Applicant are declaratory in nature thereby predicating the success of the other reliefs on them.

It is trite that where the Court is called upon to make declaration of claiming to be entitled to the said declaration to satisfy the Court by cogent and reliable evidence in support proof of his claim and not the admission or on default of filing a defence. **See AGBAJE V. FASHOLA & ORS (2008) 6 NWLR (PART 1082) & SAMEJI V. IGBE & ORS (2011) LPELR – 4412.**

From the endorsement on the face of the originating motion, Applicant seeks a declaration that the constant harassments, intimidations, threats of arrest and detention, threats to bring about a trump up criminal

complaints against the Applicant by the Respondents over a contract agreement that had existed before the Applicant was appointed a Director of the Company (GAT Techno Dynamics Ltd) is tantamount to a violation of the Applicant's fundamental rights. I have considered the affidavits in support and against and the ensuing arguments by way of written submission.

It is the Law that matters filed under the Fundamental Rights (Enforcement Procedure) Rules, 2009 are fought and won vide affidavit evidence.

I shall therefore highlight on paragraphs of the affidavits before the Court, for understanding the gravamen of the Applicant's application.

It is the affidavit evidence that the Respondents invited him to their office over an investigation and was released on bail after tendering a statement. That even through the transaction being investigated was done before he become a Direction of GAT Techno Dynamic Ltd (The Party to the transaction) The Respondents have continued to invite him with the threat of Arrest and detention over his political ambition to become Governor of Imo State. The Applicant believed he is being persecuted for political reasons.

On the part of the Respondent However, they refer to Exhibit EFCC1 which is a special Report on procurement of Rader for the Nigerian Air Force by GAT Techno Dynamics Ltd. The report contains Record of the committee of audit of Defence equipment procurement in the Nigerian Armed Forces by GAT Techno Dynamics Ltd. In continuation of its investigation, the Applicants attention was drawn to an invitation by messaging and a letter through the Chief of Air Staff but he decided to file this suit.

From the onset, the question that begs for an answer is this, was the Fundamental Right of the Applicant infringe upon by any or all the Respondents?

It must be said, in fundamental right cases, such as the present case, the law is clear as provided in Section 46(1) of the 1999 Constitution (as amended) where it provides the grounds as to what determines whether one's fundamental right is breached. The section states thus:

“Any person who alleges that any of the provision of this chapter has been, is being or is likely to be contravened in any state in relation to him may apply to a high court in that state for redress.”

Also, by virtue of Order II, Rule 1 of the Fundamental Rights (Enforcement Procedure) Rules, 2009, the Rule provides thus:

“any person who alleges that any of the fundamental rights provided for in the constitution and to which he is entitled, has been, is being or is likely to be infringed may, apply to the court in the state where the infringement occurs or is likely to occur for redress.”

Fundamental rights are generally regarded as those aspects of human rights which have been recognized and entrenched in the constitution. See **E.F.C.C. VS. AKINGBOLA (2015) II NWLR PT 1470 PG. 249 AT PG. 290.**

These rights are amplified further by the Court of Appeal in **FRANCIS V.ASUGHA (2020) LPELR** (among other decided authorities) that the law is trite, what constitutes fundamental rights action is rooted in the infringement of any of the basic rights of a citizen as enshrined in Chapter IV of the 1999 Constitution of the Federal Republic of Nigeria (as amended). See also **AL-HASHIM V. TOM & ORS (2019) LPELR 47651 C.A. RAMSOME-KUTI VS. ATTORNEY GENERAL OF THE**

FEDERATION (1985) 2 NWLR (PT.6) 21 AT 229 TO 230.

The functions of the **Economic and Financial Crime Commission (EFCC)** are provided for, specifically under section 6 (a-g) of the EFCC Act, as follows:-

- 1. Investigation of all financial crimes including advance fee fraud, money laundering, counterfeiting, illegal charge transfer, futures market fraud, fraudulent endorsement of negotiable instruments, computer credit card fraud, contract scan etc.**
- 2. The adoption of measures to identify, trace, freeze, confiscate proceeds derived from terrorists activities, economic and financial crimes related offences or the properties the value of which corresponds to such proceeds;**
- 3. The adoption of measures to eradicate the commission of economic and financial crimes, amongst other functions numerously itemised under the aforementioned section of the Act.**

For all intents and purposes, Respondents Organization (EFCC) is a reputable commission with mandate to ensure

Nigeria becomes free of financial crimes. It is indeed our collective responsibilities to ensure all hands are on deck for all agencies of government to work well and achieve the desired results.

However, that cannot be done in utter disregard for the constitutionally provided rights, which are well guaranteed.

The question that must be asked at this point is what Fundamental right of the Applicant was breached or likely to be breached by the actions of the **Respondents**. It is in evidence that the Respondents were investigating an allegation of crime involving a entity for which the Applicant is a Director. The Respondents who as earlier stated are tasked with the investigation of crimes, particularly one involving financial crimes invited the Applicant in continuation of its investigation. It is in evidence that the statement of the Applicant was obtained at the Respondents office and the Applicant was released when he honoured the first invitation. The Applicant has alleged that he was continuously invited by the Respondent for the purpose of arresting and detaining him over an issue he was not privy to. In **RIVERS STATE MICROFINANCE AGENCY V. MRS DIALABA S. D. ISOKARIARI & ANOR (2018) LPELR 44863 (CA)**, the court of Appeal held that it will amount to an

abuse of the process of law to move the court in the guise of enforcement of right to inhibit any law enforcement agency from performing its statutory duty. An invitation to a person, even a suspect cannot by any stretch of imagination constitute a breach or threat to the fundamental right of such person. Fundamental right action are based on facts connected to an infraction on the right complained and not on flimsy Apprehension.

In the 4th relief it was prayed that the Respondents be restrained from dealing with the Applicant in respect of the investigation it is conducting. This is unavailing especially, as admitted by the Applicant he was not detain on the first invitation, but released on bail.

The trite position of the law is as in the case of *EWULO V. EFCC & ORS (2015) LPELR-40912 (CA)* where the court held thus:

“It is no longer in doubt that Agencies vested with statutory powers to investigate crimes cannot be restricted or arm twisted by litigation to prevent them from exercising their statutory powers.....under S. 41 of the EFCC Act, 2004 the commission cannot be held accountable for any invitation, arrest and detention of any person in the process of discharging its statutory duties of

investigating and preventing the commission of crimes”

It is my considered judgment that the Applicant, who came to court to frustrate the Respondent from investigating the alleged criminal activities of GAT Techno dynamics Ltd, has failed to convince the court legally speaking from his deposition, as there is no place that the applicant has stated that he was arrested and detained or that he was threatened with same.

Applicant has no place to stand in law to challenge the Respondents’ action. As the Respondents have the right to invite the Applicant to interview him on matters relating to the company in which he is a Director.

In all, there is no right of the Applicant known to law breached by the Respondents worthy of any judicial injunction by way of order.

This Court will not clip the wing of Respondents to prevent it from carrying out its investigation, which is what the Applicant appears to seek by this action.

The primary reliefs are declaratory in nature. The affidavit evidence of the Respondents is more superior and legally convincing. I disagree with the Applicant.

I refuse the application because it is most unmeritorious and specially packaged to wrongly sway this Court into agreeing with it.

Application is accordingly dismiss.

SIGNED:
HON. JUDGE
08/05/2023.

Appearance:

Ikeogu Ugochukwu, Esq, for the Applicant

Christopher Mshelia, Esq, for the Respondents