

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

**IN THE ABUJA JUDICIAL DIVISION**

**HOLDEN AT ZUBA, ABUJA**

**ON FRIDAY THE 23<sup>RD</sup> DAY OF FEBRUARY, 2024**

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

**SUIT NO.: FCT/HC/CV/246/2023**

**BETWEEN:**

**MONDAY ILEBODE**

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**APPLICANT**

**AND**

**1. COMMISSIONER OF POLICE FCT**

**2. DIVISIONAL POLICE OFFICER (MABUSHI DIVISION)**

**3. INVESTIGATING POLICE OFFICER (MABUSHI DIVISION)**

**} RESPONDENTS**

## **JUDGMENT**

In this Suit premised on FREP the Applicant, Monday Ilebode alleged that the Commissioner of Police FCT, Divisional Police Officer (Mabushi Division) and the Investigating Police Officer (Mabushi Division) violated his Fundamental Right by confiscating and using his Toyota Matrix vehicle – **BWR 97 PW** which he legitimately purchased as a scrap before refurbishing same to its present state.

He wants Court to declare the action of the Respondents illegal. He wants an Order of this Court for the Respondents to release the said vehicle to him. He also wants an Order of Court for the Respondents **₦10,000,000.00 (Ten Million Naira)** to him as Damages for violating his Right – confiscating the vehicle, detention and conversion of his immovable property and **₦1,000,000.00 (One Million Naira)** as cost of the Suit.

He relied on **S. 46, 44 of the 1999 Constitution of the Federal Republic of Nigeria** (as amended) and **Order 1, 2 & 3 of the Fundamental Rights (Enforcement Procedure) Rules, Article 14 of the African Charter on Human and Peoples Right.**

He filed Affidavit of 25 paragraphs and Written Address. He attached the vehicle particulars and proof of ownership and license.

In the Written Address he raised one Issue for determination which is:

**“Whether the Court ought to hold that the Respondents’ action tantamount to gross violation of his Right to own property, violation and abuse of his Fundamental Right as guaranteed under the Constitution.”**

He answered the question in the affirmative and submitted that **S. 46(1) of the 1999 Constitution of the Federal Republic of Nigeria** (as amended) grants him right to seek redress in High Court if any of his Right is

violated. He submitted that the Respondents have no right to confiscate his property and convert same too as they did in this case. He urged Court to hold that the action of the Respondents violated his Right as they have no right to do so. Hence, their action violates **S. 44 of the 1999 Constitution of the Federal Republic of Nigeria** (as amended) and **Article 14 of the African Charter on Human and Peoples Right**. He relied on the case of:

**Abacha V. Fawehumi**  
**(2000) LPELR – 14 (SC)**

That the Respondents who seized the vehicle have no right to conduct any investigation that affects property Right without Court Order. That they have no right to convert same vehicle as their Patrol Van. That Court has right to deprecate that action of the Respondent. He referred to the cases of:

**Onyekwelu V. INEC**  
**(2008) 14 NWLR (PT. 1107) 317**

**Amaechi V. INEC**  
**(2008) 5 NWLR (PT. 1080) 227**

That he is entitled to payment of damages by the Respondents both General and Exemplary. He referred to the case of:

**Punch Limited V. Attorney-General of the Federation**  
**(1998) 1 HRLRA 488**

He urged Court to so hold and grant their Reliefs both declaratory and consequential.

The Respondents were served both the Application and Hearing Notices. But they did not enter appearance in pen and/or paper and did not have any Counsel representation.

After several futile attempts to see if the Respondents will come to put up any Counter/Defence, the Court allowed the Applicant to adopt his Processes and reserved for Judgment since it cannot wait for the Respondents in perpetuity.

It is the law and a well known fact that any matter where a party who was given all legal leverages failed to respond, that the facts thereon are deemed admitted and unchallenged and uncontroverted too. This is so where there is clear indication that the Respondent as in this case were given all the chance to respond and challenge the case of the Applicant but they failed, refused and ignored to do so.

As it is the Suit of the Applicant in this Suit is unchallenged and facts are uncontroverted. Since that is the case this Court answers the question raised in the affirmative and hold that the Respondents actually violated the Right of the Applicant as alleged by their action.

The Court therefore grants the Reliefs sought by the Applicant thus:

- (1) Relief No. 1 granted as prayed.
- (2) Relief No. 2 also granted.
- (3) On Relief No. 3, this Court hereby Order the 1<sup>st</sup> – 3<sup>rd</sup> Respondents to pay to the Applicant the sum of ₦100,000.00 (One Hundred Thousand Naira) as Damages for violating his Rights as established.
- (4) The Respondents are also to pay the sum of ₦20,000.00 (Twenty Thousand Naira) as cost of this Suit.

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

**Delivered today the \_\_\_ day of \_\_\_\_\_ 2024 by me.**

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

**APPEARANCE:**

APPLICANT COUNSEL: ALEX ANENUSO ESQ.

RESPONDENTS: NOT REPRESENTED BY ANY COUNSEL.