

IN THE HIGH COURT OF THE FEDERAL CAPITAL TERRITORY

IN THE ABUJA JUDICIAL DIVISION

HOLDEN AT MAITAMA

BEFORE HIS LORDSHIP: HON. JUSTICE Y. HALILU
COURT CLERKS : JANET O. ODAH & ORS
COURT NUMBER : HIGH COURT NO. 14
CASE NUMBER : SUIT NO: CV/2415/2021
DATE: : THURSDAY 2ND MAY, 2024

BETWEEN

CHIEF CHRIS UBA CLAIMANT

AND

1. HON. MINISTER OF FCT
2. FED. CAP. DEV. AUTHORITY
3. SOUTH LAND ASSOCIATES LTD. } **RESPONDENTS**

RULING

This is a consolidated Ruling pursuant to an amended originating Motion dated and filed on the 26th day of September, 2022 and preliminary objection dated the 25th day of January, 2023 wherein the following reliefs were sought as follows;

1. A declaration, that the refusal by the 1st and 2nd Respondents to assign in favour of the Applicant, the property at plot No. A0612693B, Colorado Close, Cadastral Zone, A06 Maitama (with Certificate of Occupancy No. 660uw – 17355 – 5b69r – fa5ou – 10 covered by file No. (OY30441) for which approval of consent had been given and necessary fees paid, is arbitrary, oppressive and a usurpation of their powers and functions under section 4, 8, 9, and 18 of the Federal Capital Territory Act, F6, LFN, 2004.
2. A declaration that the deliberate submissions of the 1st and 2nd Respondents to a court proceeding (**SOUTHLAND ASSOCIATES LTD. & ANOR VS. HON. MINISTER FCT & FCDA** – Judgment delivered on 11th March, 2016, in Suit No. FCT/HC/CV/441/2015 without defending same or intimating the court of the existing approval of consent in favour of the Applicant, to assign Plot No. A06/2693B, Colorado Close,

Cadastral Zone, A06, Maitama (with certificate of occupancy No. 660uw – 17355 – 5b69r – fa5ou – 10 covered by file No. OY30441) is unfair and ultra vires their powers and functions, under sections 4, 8, 9, and 18 of the Federal Capital Territory Act F6, LFN 2004.

3. An Order of mandamus, for the 1st and 2nd Respondents, to forthwith assign in favour of the Applicant, the property at Plot No. A06/2693B, Colorado Close, Cadastral Zone, A06 Maitama (with certificate of occupancy No. 660uw – 17355 – 5b69r – fa5ou – 10 covered by file No. OY30441).
4. An Order of prohibition against the Respondents from further taking actions or step in documentations, proceedings, registration record keeping of any power of attorney or deed of assignment relating to the transfer or assignment of title on the property at plot No. A06/2693B, Colorado Close, Cadastral Zone, A06 Maitama (with certificate of occupancy No. 660uw-17355 – 5b69r – fa5ou – 10 covered by file No. OY30441) in favour of any other person, persons or entities, apart from the Applicant.
5. And for such orders or other Orders this Honourable Court may deem fit to make in the circumstance.

The grounds whereupon this application is brought is predicated as follows:-

- a. Approval of consent was granted by the 1st Respondent, to assign Plot No. A06/2693B, Colorado Close, Cadastral Zone, A06 Maitama (with certificate of occupancy No. 660uw-17355-5b69r-fa5ou-10 covered by file No. OY30441) to the Applicant.
- b. The Applicant immediately caused the mandatory statutory fees (9, 293,440.00) to be paid, through the name of the initial owner, who had executed all necessary transfer documents with the Applicant, the said documents which had already been registered with the Respondents.
- c. Rather than assigning the property in favour of the Applicant (the necessary fees paid and conditions precedents having been met), the Respondents by a conspiracy of silence, submitted to a court proceeding which was commenced later in time to the approval of consent, whereof judgment was obtained against the Applicant, on the said property.
- d. The judgment aforementioned (***SOUTHLAND ASSOCIATES LTD. & ANOR VS. HON. MINISTER OF FCT & FCDA*** delivered on 11th March, 2016 in suit No.

FCT/HC/CV/411/15 was commenced much later after approval had been granted for assignment of the property to the Applicant, but the Respondents deliberately failed to defend the suit or communicate the Applicant's subsisting interest to the court, whereof the court was misled to believe that there was no subsisting interest on the property.

- e. The actions and inactions of the Respondents, particularly the 2nd Respondent not to assign the property aforementioned in favour of the Applicant is oppressive, capricious, malicious and ultra vires their powers, which have now unfairly determined the Applicant's rights.
- f. By this unlawful compromise, the Applicant's interest has been arbitrarily and unlawfully impaired; whereof the intervention of this court in terms of the substantive reliefs hereof have been sought.

In support of the Originating Motion is an affidavit of 17 paragraphs duly deposed to by the Applicant himself.

The case of the Applicant as distilled from the affidavit in support of the Originating Motion is that by virtue of a duly registered irrevocable power of attorney, he became a beneficiary of the rights and interests in the property known as Plot No. A06/2593B,

Colorado Close Cadastral Zone Ao6 Maitama (with certificate of occupancy No. 660uw – 17355 – 5b69r – fa5ou – 10 covered by file No. OY30441) a copy is attached and marked Exhibit “A”.

That the original allottee of the said property is one Taiwo Abraham Ojo. copy of each of the offer letter and Certificate of Occupancy are herewith attached and respectively marked Exhibits “B1”, “B2” and “B3”.

That upon fulfillment of the valuable consideration with respect to the property, the said Taiwo Abraham Ojo wrote to the Respondents, urging that the property be assigned to the Applicant. Copy of the letter is attached and marked Exhibit “C”.

That following this request, the 1st Respondent sometimes in July, 2014, caused a corresponding letter to be written to Taiwo Abraham Ojo granting assent for assignment of the property to the Applicant. The letter for approval of consent is herewith attached and marked Exhibit “D”.

The Applicant stated that he consistently visited the offices of the 1st and 2nd Respondents, urging them to proceed with the assignment, but they constantly required him to come back alleging that the administrative process of assignment was a cumbersome one.

The Applicant further stated that sometime in March, 2021, he went to the 1st and 2nd Respondents' Officer(s) and was frankly told that the assignment would not be done in view of the judgment obtained against the Respondents between SOUTHLAND ASSOCIATES LTD. & ANOR VS. HON. MINISTER OF FCT & FCDA judgment delivered on 11th March, 2016 in suit No. FCT/HC/CV/411/2015. Copy of the judgment is attached and marked Exhibit "F".

That he has taken time to read the judgment and from the facts contained he knew that the suit leading to the judgment was commenced on 8th December, 2015 and several hearing notices were served on the 1st and 2nd Respondents but they did not appear in court to defend the case.

That the letter for approval of consent by the 1st Respondent for assignment of the property to the Applicant was issued over a year before the suit in Exhibit "F".

That payment of the sum of N9,293,440.00 (Nine Million, Two Hundred and Ninety Three Thousand, Four Hundred and Forty Naira) in relation thereof was immediately paid by the Applicant through Taiwo Abraham Ojo.

That 1st and 2nd Respondents, particularly the 1st Respondent was aware of the existence of his accrued right, both in equity and law before Exhibit "F" was served on them.

That the 1st and 2nd Respondents did not draw his attention to the subsistence of Exhibit "F" and that the 1st and 2nd Respondents deliberately suppressed information about the subsistence of the suit in Exhibit "F" because they had ulterior motives, intended to compromise his interests.

It is further the deposition of the Applicant that the decision of the 1st and 2nd Respondents whereby they failed to assign the property to him despite fulfilling the necessary obligations and they failed to alert him of the pendency of the suit in Exhibit "F" and that they failed to defend the suit or bring to the court's notice of his already existing interest were all actuated deliberately intended to unfairly undermine his interest in usurpation of their statutory powers and functions.

That the actions of 1st and 2nd Respondents have become questionable, whereof the intervention of this court is required and that their decisions and actions are ultra vires their administrative and statutory powers.

That the 1st and 2nd Respondents acted unconstitutionally, illegally, arbitrarily and capriciously causing him to suffer grave injustice.

That it will serve in the interest of justice, if this application is granted.

In line with the law, a written address was filed wherein sole issue was formulated for determination to wit:-

“In the absence of 1st and 2nd Respondents recourse to mandatory procedural safeguards in sections 36, 43 and 44 of the 1999 Constitution (as amended), including their duties in sections 4, 8, 9 and 18 of the Federal Capital Territory Act, F6 LFN 2004, whether it was right for them to arbitrarily deny, deprive, compromise, impede and or interfere with the Applicant’s right of assignment to the property described as plot No. A06/2693B Colorado Close, Cadastral Zone, A06 Maitama (covered by certificate of occupancy No. 660uw – 17355 – 5b69r – fa5ou – 10 covered by file No. OY30441), when approval for consent/assignment had been given on same, and the mandatory statutory fees already paid.”

Arguing on the above, the Court's attention is humbly invited to Applicant's Exhibit D, which is a letter of approval of consent written by 1st Respondent assenting to an assignment of the subject matter property in favor of the Applicant sometimes in July 2014. He added that this directive was for the 2nd Respondent to immediately assign the rights and interest in the above-mentioned property in favor of the Applicant.

Learned counsel argued further that in the same Exhibit D, the Applicant was required to pay a financial consideration of N9,293,440.00 (Nine Million Two Hundred and Ninety Three Thousand Four Hundred and Forty Naira) which Applicant paid through the initial owner one Taiwo Abraham Ojo before it was transferred to the Applicant vide an irrevocable power of attorney in Exhibit A. Evidence of payment of the above sum through the said Taiwo Abraham Ojo is in Exhibit "E".

Learned counsel submits that the 1st and 2nd Respondents actions and in actions are completely laced with very questionable motives outside the scope of their administrative statutory duties and in violation of the Applicant's constitutional rights. Being a body with capacity to determine the rights of the Applicants, the same having been unlawfully and unconstitutionally done, it has

become very exigent to initiate this proceeding. Counsel added that the courts must at all times do justice, even if the heaven falls. The cases of ***PACKER VS. PACKER (1953) 2 ALL E.R 127; and***

AMAECHI VS. INEC & ORS. (2008) LPELR 446 were cited.

Learned counsel further submits that the 1st and 2nd Respondents arbitrary and collusive actions, deliberately orchestrated to deprive the Applicant of an already vested interest is at best described, as a step to the destruction of the fabrics of our justice system. That there is no basis for the Respondents not to assign the property to the Applicant, or not to indicate to him, the pendency of a suit which was capable of determining his interest in the said property, without an opportunity to be heard. These recognitions are understood to be safeguards/procedural fairness as entrenched in sections 36, 43 and 44 of the 1999 Constitution (as amended).

Learned counsel further submits that the procedural fairness or safeguards are required, whenever the exercise of a power will adversely affect a right protected by the constitution or other enabling laws. He cited ***RIDGE VS. BALDWIN (1964) A.C 40, 76 at 2 ALL E.R 66 was cited.***

Counsel submits that where power is vested in a body to do certain things, there is prima facie discretion on the part of that body to so do. However, these discretionary powers impose a correlative duty that same must be reasonably exercised.

Learned counsel added that statutory powers conferred for public purposes are conferred as it were upon trust as there is no room for absolute or unfettered discretion in public law. He cited ***WESTMINISTER CORPORATION VS. N.W RAIL WAY (1905) AC 426 at 430.***

That the court is humbly invited to note that the Applicant's claim herein is essentially for assignment of the interest in the subject property to him, as opposed to registration of any deed or power of attorney. The irrevocable power of attorney in Exhibit "A" had already been registered in favour of the Applicant.

It is the submission of the learned counsel on the above that every agreement between individuals or a treaty between states, presupposes that in concluding the agreement, the parties acted with the intention to abide by its provisions.

That parties have agreed by Exhibit "D" that the subject property be assigned to the Applicant, whereof he made corresponding

payments in Exhibit "E". ***UBN LTD. VS. NWAOKOLO (1995) 6 NWLR (Pt. 127) at 154 was cited.***

Learned Counsel contended that the 1st and 2nd Respondents being public bodies with a quasi-judicial power have determined the Applicant's rights, without recourse to all the procedural safeguards known to both law and equity. Further, since there have been interceptions of the Applicant's interest which go to the very fulcrum of the Respondents' powers, there is need for an intervention of the court and a grant of the reliefs sought in this application. He cited ***JOHNSON VS. LUFADAJU & ANOR (2002) 8 NWLR (Pt. 768) 192, 221.***

Learned counsel for the Applicant respectfully invited the court to resolve the instant issue in its favour and accordingly grant all the reliefs sought in this application.

Upon service, the 1st, 2nd and 3rd Respondents filed their counter affidavits opposing the Applicant's amended Originating Motion, and 3rd Respondents apart from the counter Affidavit filed a Notice of preliminary objection.

1st and 2nd Respondents in their counter affidavit in opposition to the Claimant Amended Originating Motion deposed to by one

Daniel Joseph, a litigation secretary in the office of the 1st and 2nd Respondents' counsel stated thus;

It is the deposition of the 1st and 2nd Respondents that consequent upon their avowed positions as public servant and public institutions to at all times work within the ambit of the law, they upon the seeming application of one Mr. Taiwo Abraham Ojo the beneficial owner of Plot 2693B, Colorado Street, Maitama, Abuja to assign his said property to the Applicant, proceeded in the discharge of their responsibility to write to him to convey the consent of the 1st Respondent to him to assign the said property upon the payment of the deemed amount to be paid. Reliance shall be placed on the said letter exhibited by the Applicant.

That upon the receipt of the payment of the deemed sum payable for the assignment, officials of the 1st and 2nd Respondents began the process of the assignment of the property as seemingly requested by the said Mr. Taiwo Abraham Ojo.

That in the process of working on the said assignment, the attention of the officials of the 1st and 2nd Respondents were drawn to an application to enter a caveat on Plot 2693B, Colorado Street, Maitama, Abuja the same property they were processing for assignment.

That as it is customary, once there is an application for a caveat in respect of any plot file being treated by officials of the 1st and 2nd Respondents, all actions on such plot files are put on hold until the said caveat is removed.

That it was in the process of waiting for the said caveat to be removed that the 1st and 2nd Respondents were served with the order of this Honourable Court in Suit No: FCT/HC/CV/411/15 presided over by Late Hon. Justice Valentine R. Ashi in favour of the 3rd Respondent, to register the transfer of title in respect of Plot 2693B, Colorado Street, Maitama, Abuja the same property in favor of the 3rd Respondent said to have been conveyed to it by the same Mr. Taiwo Abraham Ojo.

That the appeal by the Claimant in respect of the judgment in Suit No: FCT/HC/CV/411/15 is presently pending before the Supreme Court, to wit, SC/438/2019, and the 1st and 2nd Respondents in this suit are parties in that appeal.

That the Claimant also filed Suit No: FCT/HC/CV/2938/2020 in respect of the same property in which the 1st and 2nd Respondents were made parties before the High Court of the Federal Capital Territory.

That faced with all the above court cases, the 1st and 2nd Respondents having no interest of any of the parties claiming the title of Plot 2693B, Colorado Street, Maitama, Abuja the said property, put in abeyance the issue of the perfection of the title in respect of the property until the final determination of all the issues relating to the property in court.

That contrary to the averments of the Applicant in paragraph 11 of his affidavit, the 1st and 2nd Respondents have no obligation to inform the Applicant of the pendency the 3rd Respondent suit because that suit was not initiated by them and if the 3rd Respondent had considered him necessary to its suit, it would have joined him and served him with the processes of the said suit. Having not been joined, the Claimant cannot validly claim any right of information from the 1st and 2nd Respondents in respect of the case.

That further to paragraph 'h' above, the 1st and 2nd Respondents did not have any ulterior motive for it to suppress any information from the court as its failure to promptly make representation in the said suit of the 3rd Respondent in the Court was due to administrative bottlenecks that made prompt representation in the case challenging at that time, hence the challenges of the 1st

and 2nd Respondents in the discharge of their duties cannot be inputted to say that they have motives or suppressed information from the Court.

That contrary to the averments of the Applicant in paragraphs 12, 13, 14 and 15 of his affidavit, the 1st and 2nd Respondents aver that as public servant and institution they usually discharge their responsibilities without fear or favour. And further, in the several suits and appeals in respect of the judgment in Suit No. CV/411/15 filed by the Applicant, all the court had consistently held that, that none of the suits had anything to do with him, and yet despite being aware of the clear holdings of the Courts against him, the Applicant without shame is peddling unfounded falsehood against the 1st and 2nd Respondents to unnecessarily mislead this Honourable Court in order to attract unmerited sympathy.

That it will be against the interest of justice to grant the Applicant's reliefs before this Honourable Court in the face of a subsisting judgment of this Honourable Court and the several suits and appeals spanning several courts including the Supreme Court in respect of the title of the same property without the determination of the said suits and appeals.

In line with law and procedure, a written address was filed wherein sole issue was formulated for determination to wit:-

Whether consequent upon the facts disclosed in the respective affidavits of the parties in this suit particularly the 1st and 2nd Respondents counter affidavit, the 1st and 2nd Respondents were justified in stopping the process of issuing the title documents in respect of Plot No. A06/2693B Colorado Close, Cadastral Zone, A06, Maitama, Abuja to the Applicant.

It is the submission of the learned counsel that the 1st and 2nd Respondents being a responsible and law abiding personalities cannot be expected to act arbitrarily and unlawfully when confronted with an application for a caveat when working on the perfection of the title of the said property, the subject matter of this court as now being urged by the Claimant. He cited ***ODUNEWU VS. MARTINS (2011) NWLR (Pt. 1250) at Page 589, paragraph A.***

It is also the submission of the learned counsel that the pendency of these cases and appeals in respect of the same property in various courts is a valid restraining factor against the 1st and 2nd Respondents proceeding to issue any title to either the Claimant

or the 3rd Respondent on the legal principle of lis pendens. The case of ***MAJEKODUNMI VS. CO-OP BANK LTD. (1997) 10 NWLR (Pt. 524) at Page 220, paragraphs A-B was cited.***

Counsel further submits that in the circumstances in the face of the subsisting judgment in Suit No: FCT/HC/CV/411/15, this Honourable Court cannot proceed with the determination of this case; as what the Claimant want this Honourable Court to do is to review the judgment of his Lordship Late Hon. Justice Valentine R. Ashi who sat as a court co-ordinate jurisdiction which this Honourable Court, and this Court by law cannot review the judgment of a court of the same co-ordinate jurisdiction.

Counsel respectfully submits that in the face of relevant judicial decision cited, the argument in support of the sole issue formulated by the 1st and 2nd Respondents in this case, the said issue should be answered by this Honourable Court in the affirmative and the Claimant's claims before this Honourable Court dismissed.

In conclusion, the Court is urge to dismiss the suit of the Claimant with substantial cost as it is not only frivolous but unmeritorious.

On the part of 3rd Respondent, 9 paragraphs counter – affidavit in opposition to the Claimant’s Originating Motion, duly deposed to

by one Nansat Christopher, a litigation secretary, in the law firm of counsel representing the 3rd Respondent in this case.

It is the deposition of the 3rd Respondent that, except where otherwise stated, every material fact deposed to herein are within his knowledge, belief and/or information derived from named persons.

That the depositions contained in paragraphs 3, 5, 6, 7, 8, 9, 11, 12, 13, 14, 15, 16 and 17 of the affidavit in support of the originating motion are false, contrived and misleading.

That contrary to the depositions contained in the said paragraphs, he knows as a fact that the subject property was first allocated to one Taiwo Abraham Ojo under the sale of Federal Government Landed Properties in the Federal Capital Territory and was issued with the Certificate of Occupancy No. 660uw-17355-5b69r-fa5ou-10 dated 16th December, 2011 and registered as FC 51113 at Page 1, in Volume 256 of the Federal Capital Territory Land Registry, Abuja. A copy of the said Certificate of occupancy is attached and marked as "Exhibit MAM `1`".

That the original allottee, Taiwo Abraham Ojo has since assigned his interest in the property to the 3rd Respondent for valuable consideration and executed a Deed of Assignment in that regard

dated 3rd May, 2012. A copy of the Deed of Assignment is attached and marked as "Exhibit MAM '2'.

That the 3rd Respondent had commenced the processes of perfecting her title to the subject property by filing the requisite application at the Abuja Geographic Information System (AGIS), the organ of the 1st and 2nd Respondents charged with the responsibility of registration of titles to lands within the federal Capital Territory. Copy of the letter dated 18th June, 2012 submitted to AGIS is attached and marked as Exhibit MAM '3'

That the Abuja Geographic Information System (AGIS) could not proceed with the perfection of the 3rd Respondent's title to the subject property, on account of his inability to locate file containing the record of the subject property in her office.

That he knows as a fact that the 3rd Respondent made several follow ups at Abuja Geographic Information Systems. It wrote a reminder letter dated 23rd September, 2014 complaining about the delay in completing the registration of the title. A copy of the said Reminder is attached and marked "Exhibit MAM 4"

That on the same 23rd September 2014, he wrote another letter to the Director Lands in Abuja Geographic Information Systems, requesting a caveat be placed on the file to check- mate any

surreptitious attempt to deal with the subject property. Attached and marked herewith as "Exhibit MAM 5" is a copy of the letter.

That when the efforts geared towards prompting the 1st and 2nd Respondents to proceed with the application for perfection of the title to the property seemed impossible, the 3rd Respondent instituted the action in Suit No.: FCT/HC/CV/411/2015. A copy of the Originating Summons in that case is attached and marked as "Exhibit MAM 6".

That he confirms that he had via a Deed of Assignment transferred his unexpired interests in the property to the 3rd Respondent on 3rd May, 2012.

That after his transfer of title to the 3rd Respondent, he has not transferred the title to any other person.

That he was a co-plaintiff in the Suit No.: FCT/HC/CV/411/2015 between Southland Associates Limited & Anor Vs. Hon. Minister Federal Capital Territory & Anor filed against the 1st and 2nd Respondents before this Honourable court.

That he knows as a fact that the suit was filed to compel the 1st and 2nd Respondents to perform their statutory duties, the 3rd

Respondent having complied with all requirements required by law for registration of title in the FCT.

That he is aware that this Honourable court, per Valentine B. Ashi, J., delivered judgment in the said suit on 11th March, 2016

That this Honourable Court has already compelled the 1st and 2nd Respondents to register and keep records of the 3rd Respondent's deed of Assignment dated 3rd May 2012 as evidence of transfer of title from him (Taiwo Abraham Ojo) to the 3rd Respondent herein.

That upon the delivery of judgment in the Suit No. FCT/HC/CV/411/2015 between Southland Associates Limited & Anor Vs. Hon. Minister Federal Capital Territory & Anor delivered on 11th March, 2016, the Plaintiff herein sought the leave of the Court of Appeal to appeal the judgment as an interested party.

That the Court of Appeal refused to grant the leave sought because the Applicant (Chief Chris Uba) failed to show a reasonable cause why the leave should be granted. The application for leave was thus dismissed.

That being dissatisfied with the decision of the Court of Appeal, the Applicant herein has appealed to the Supreme Court. The appeal at the Supreme Court in SC/CV/438/2019 between Chief

Christian Uba Vs. Southland Associates Limited. & 3Ors is still pending till date and the Applicant has even filed his brief of argument in the said appeal.

That while the appeal at the Supreme Court was still pending, the Applicant filed a Writ of Summons before this Honourable Court on 16th October, 2020 in Suit No. CV/2938/2020 between Chief Christian Uba Vs. Emmanuel Nnamdi Uba & 4Ors. A copy of the Writ of Summons filed in that case is attached and marked as "Exhibit MAM 7".

That the above referenced suit - Suit No. CV/2938/2020 is also upon the same property known as Plot No. A06/2693B, Colorado Close, Cadastral Zone, A06, Maitama (covered by Certificate of Occupancy No. 660uw-17355-5b69r-fa5ou-10 covered by file No. OY30441).

That the Applicant changed his claim in that case to allege that the property was used as a collateral for loan purportedly collected by Senator Nnamdi Uba from him.

That the 3rd Respondent had filed a Notice of Preliminary objection against the said Suit No. CV/2938/2020- on the grounds of abuse of court process, statute bar and want of jurisdiction.

That this Honourable Court, had after the hearing of the preliminary objection been faced with a notice of discontinuance of the said suit.

That upon ruling on the application to withdraw the suit, this Honourable Court (Coram: Honourable Justice Y. Halilu) dismissed the suit. A certified true copy of the ruling of this court is attached and marked as "Exhibit MAM 8".

That this instant suit is fourth suit that will be filed upon the same property.

That he knows as a fact the reliefs sought in this suit will adversely affect the judicially conferred right earlier granted to the 3rd Respondent by this Honourable Court.

That by virtue of his experience as a legal practitioner, he knows that this instant is an attempt to invite this Honourable Court to make findings tantamount to sitting on appeal on the case pending before the Supreme Court.

That the Applicant cannot re-litigate a claim on the same subject matter and parties with one he has previously voluntarily withdrawn and dismissed

That there must be an end to litigation.

That this suit is brought in abuse of judicial process.

That this case is commenced by a wrong procedure.

That he knows as a fact that a public body cannot factually inform every Applicant for registration of titles before it of the thousands of pending litigations against all the properties situate in the Federal Capital Territory.

That he knows that the law does not compel impossibility.

That he also knows that legal proceedings are considered as notice to the whole world.

That this suit is academic and of no utilitarian value to the Applicant.

That it is in the interest of justice to dismiss this case with punitive costs against the Applicant.

In line with law and procedure, a written address was filed wherein two issues were formulated for determination to wit:-

1. **Whether this suit is an abuse of court process in view of the pending appeal before the supreme court?**

2. **Whether the Applicant has proved his case on the balance of probabilities for him to be entitled to the reliefs sought?**

ISSUE ONE

Whether this suit is an abuse of court process in view of the pending appeal before the supreme court?

Learned counsel argued that from the totality of the material facts contained in the counter affidavit in opposition to the Originating Motion as well as the Exhibits attached, that prior to instituting this action in court, the 3rd Respondent has instituted proceedings before his lordship (Hon. Justice Valentine R. Ashi) in Suit No. FCT/HC/CV/411/15 between Southland Associates Ltd .& Anor Vs .Hon. Minister FCT, on the same subject matter and same parties with regards the same property (Plot No. 269 Colorado Street Maitama District, Abuja with Certificate of Occupancy No:660uw-17355-5b69r- fa50u-10)

Learned counsel further argued that the subject matter for which the Applicant has approached this Honourable Court in the year 2022 is the same as that pending before the Supreme Court, in which he is also the Appellant.

Learned counsel submits that there is always a presumption of the validity and bindingness of a judgment/order of Court until it is set aside. ***OBA LAWANI ALADEGBEMI VS. OBA JOHN FASANMADE (1988) 3 NWLR (Pt. 81) 129 and ROSSEK & ORS VS. A.C.B. LTD.& OTHERS (1993) 8 NWLR (Pt. 312) 382 at 471-472 were cited.***

Counsel also submits that the effect of the foregoing facts is that the Applicant by his action seeks to employ the process of the Court for the purpose of achieving an unlawful end to overreach the 3rd Respondent.

It is the submission of the learned counsel that the law is settled that abuse of court process is in the intention of the Claimant and not necessarily in the exercise of the right per se. the Supreme Court Per NGWUTA, JSC puts this clearly in the case of ***MOHAMMED VS. GWARZO (2021) 9 NWLR (Pt. 1782)577, 593 A-D.***

Counsel respectfully urge the court not to listen to the Applicant's inglorious call to set this Honorable Court on a collision course with the Supreme Court by asking it to assume jurisdiction over a matter pending before the Supreme Court. The Court is urge to dismiss this application on that score.

On issue 2, **whether the applicant has proved his case on the balance of probabilities for him to be entitled to the reliefs sought?**

Learned counsel also submits that the Applicant has not proved his entitlement to the reliefs sought on the basis of the materials placed before the court.

Counsel further submit that the law is settled that a Plaintiff like the Applicant herein must succeed on the strength of his case and not on the purported weakness of the defence offered by the Defendants. The case of ***AMOBI VS. OGIDI UNION (NIG) & ORS (2021) LPELR – 57337(SC) Per AMINA ADAMU AUGIE, JSC Page 25-26 Paragraphs A -C, was cited.***

Learned counsel humbly submits that the Applicant's case is not maintainable by way of an Originating Motion. The Court is invited to take a look at the exhibits relied upon by the Applicant vis-à-vis the facts of this case.

In conclusion, counsel urges the Court to refuse this Application and dismiss this suit in its entirety with punitive cost against the Applicant.

In turn, Applicant filed further Affidavit in reply to the 1st 2nd and 3rd respondents Counter Affidavits opposing the Applicants amended Originating Motion urging the Court to resolve the 1st and 2nd Respondents' sole issue and issues raised by the 3rd Respondents in favor of the Applicant and grant reliefs sought by the Applicant.

The 3rd Respondent/Applicant in its Notice of Preliminary objection prays for the following:-

- a. An order of this Honourable Court dismissing this suit for being an abuse of court process.
- b. An order of this Honourable Court striking out the suit for want of jurisdiction.
- c. An order of this Honourable Court striking out the suit for commencing it by a wrong procedure.
- d. And for such further Order(s) as the Honourable Court may deem fit to make in the circumstances.

The grounds upon which the Notice of Preliminary Objection is predicated is as follows:-

- a. The cause of action/subject-matter of the Claimant suit relates to the ownership of property at Plot No. A06/26938, Colorado Close, Cadastral Zone, A06, Maitama (with Certificate of Occupancy No. 660uw-17355-5b69r-fa5ou - 10 covered by file No. OY 30441).
- b. On the 11th March, 2016 this Honourable Court (Coram: Hon. Justice Valentine R. Ashi) in Suit No. **FCT/HC/CV/411/15** between **Southland Associates Ltd. & Anor Vs. Hon. Minister FCT** delivered a judgment on and declared that the subject matter (Plot No. A06/26938, Colorado Close, Cadastral Zone, A06, Maitama (with Certificate of Occupancy No. 660uw-173555b69r fa5ou - 10 covered by file No. OY 30441) has been validly transferred to the 3rd Defendant/Applicant herein (Southland Associates Limited) and ordered registration in its name.
- c. This Honourable Court in (Coram: Hon. Justice Valentine R. Ashi) in Suit No. **FCT/HC/CV/411/15** between **Southland Associates Ltd. & Anor Vs. Hon Minister FCT** has determined the subject-matter (res) in this suit.
- d. The Claimant became aware of the judgment in Suit No. **FCT/HC/CV/411/15** between **Southland Associates**

Ltd. & Anor Vs. Hon Minister FCT and filed two applications marked M/9972/16 and M/9994/16 seeking to join as interested party; set aside and stay of execution of the judgment of this Honourable Court delivered on 11th March, 2016.

- e. This Honourable Court on 3rd May, 2017 in a well-considered Ruling dismissed the Claimant's application on the grounds (amongst others) that he has failed to show prima facie genuine cause of action in the subject matter (res) to set aside the said judgment.
- f. The Claimant appealed the said ruling of this Honourable Court in Suit No. **FCT/HC/CV/411/15** between **Southland Associates Ltd. & Anor Vs. Hon. Minister FCT** as an interested party on the same subject matter (res) in the instant Suit to the Court of Appeal in Appeal No: **CA/A/742/M/2017** between **Chief Christian Uba Vs. Southland Associates Limited & 3Ors.**
- g. The Claimant abandoned that appeal and filed a fresh application before the Court of Appeal, Abuja marked **CA/A/742/M/2017**, seeking leave to appeal the judgment of this Court as an interested party. In their ruling (Coram:

Aboki, Jauro and Agim JJCA), delivered on 5th March 2019, the Court of Appeal refused the Claimant's application on the ground that there was nothing to show how the order of this court prejudicially affected the Claimant's interests.

- h. On 29th March, 2019, the Claimant appealed the Court of Appeal judgment in **Appeal No: CA/A/742/M/2017 between CHIEF CHRISTIAN UBA VS. SOUTHLAND ASSOCIATES LIMITED & 3 ORS** to the Supreme Court in Appeal number: **SC/438/2019 between CHIEF CHRISTIAN UBA VS. SOUTHLAND ASSOCIATES LIMITED & 3 ORS.**
- i. The subject matter of this instant suit has been determined by this Court in Suit No. **FCT/HC/CV/411/15 between SOUTHLAND ASSOCIATES LTD & ANOR VS. HON/MINISTER FCT** (Coram: Hon. Justice Valentine R. Ashi).
- j. The judgment of Hon. Justice Valentine R. Ashi in Suit No. **FCT/HC/CV/411/15** between **SOUTHLAND ASSOCIATES LTD & ANOR VS. HON. MINISTER FCT** has not been set-aside by any Appellate Court.

- k. The subject-matter in Appeal number: **SC/438/2019** between ***CHIEF CHRISTIAN UBA VS. SOUTHLAND ASSOCIATES LIMITED & 3 ORS*** is the same as this instant case.
- L. The parties in Appeal number: **SC/438/2019** between ***Chief Christian Uba VS. Southland Associates Limited & 3Ors*** are the same with this instant case.
- m. On 16th October, 2022, the Claimant filed another suit before this Honourable Court bothering on the same subject matter in ***Suit No: CV/2938/2020 between Chief Christian Uba VS. Emmanuel Nnamdi Uba & 4Ors.***
- n. The Subject matter (res) in ***Suit No: CV/2938/2020 between Chief Christian Uba VS. Emmanuel Nnamdi Uba & 4 Ors (Coram: Hon. Justice Y. Halilu)*** is the same with this instant suit.
- o. The parties in ***Suit No: CV/2938/2020 between Chief Christian Uba VS. Emmanuel Nnamdi Uba& 4 Ors.*** are the same with this instant suit.
- p. The 3rd Respondent/Applicant in this instant case filed a Notice of Preliminary Objection on 11th February, 2021

challenging the jurisdiction of this Honourable in ***Suit No: CV/2938/2020 between Chief Christian Uba VS. Emmanuel Nnamdi Uba & 4Ors.***)

- q. At the proceedings of 24th March, 2022 when the matter came up for hearing, the Claimant withdrew ***Suit No: CV/2938/2020 between Chief Christian Uba VS. Emmanuel Nnamdi Uba & 4Ors.*** based on the Notice of Preliminary Objection filed by the 3rd Defendant.
- r. This instant suit is gross abuse of Court processes.

Particulars of lack of jurisdiction

- a. The Claimant reliefs and subject-matter of this instant suit is connected to (Plot No. A06/2693B, Colorado Close, Cadastral Zone, A06, Maitama (with Certificate of Occupancy No. 660uw - 17355- 5b69r-fa5ou - 10 covered by file No. OY 30441) pending before the Supreme Court.
- b. This Honourable Court in (**Coram: Hon. Justice Valentine R. Ashi**) in **Suit No. FCT/HC/CV/411/15 between Southland Associates Ltd & Anor VS. Hon. Minister FCT** has determined the subject-matter (Res) in this suit.

- c. The Claimant filed an application before the Court of Appeal, Abuja marked CA/A/742/M/2017, seeking leave to appeal the judgment of this Court in Suit No. FCT/HC/CV/411/15 between Southland Associates Ltd & Anor Vs. Hon. Minister FCT as an interested party.
- d. In the Court of Appeal ruling (Coram: Aboki, Jauro and Agim JJCA), delivered on 5th March 2019, the Court of Appeal refused the Claimant's application on the ground that there was nothing to show that the Claimant's has interests in the subject-matter (**Plot No. A06/2693B, Colorado Close, Cadastral Zone, A06, Maitama (with Certificate of Occupancy No. 660uw – 17355-5b69r - fa5ou - 10 covered by file No. OY 30441)**).
- e. The Claimant being dissatisfied, appealed the judgment of the Court of Appeal to the Supreme Court in Appeal No: ***SC/438/2019 between Chief Christian Uba VS. Southland Associates Limited & 3Ors.*** which is still pending.
- f. The subject matter of this suit is presently pending at the Supreme Court in Appeal No: ***SC/438/2019 between***

Chief Christian Uba Vs. Southland Associates Limited & 3Ors.

- g. This Court has no power to sit or and make pronouncement on subject matter pending before the Supreme Court.
- h. The Order made by the trial Court in Suit No. ***FCT/HC/CV/411/15*** between ***Southland Associates Ltd & Anor VS. Hon. Minister FCT and Court of Appeal in Appeal No.CA/A/742/M/2017*** that "the Claimant has no interest in subject-matter" is binding on all parties and this court until set aside by a court of competent jurisdiction.
- i. This Court has no power to sit or and make pronouncement on subject matter pending before the Supreme Court in ***SC/438/2019 between Chief Christian Uba Vs. Southland Associates Limited & 3Ors.***
- j. This suit contains facts that are contentious and hostile.
- k. Originating Summons is not a proper procedure to commence an action in which facts are seriously contentious, hostile, acrimonious, contestable, controversial and disputed or in which facts are likely to be in dispute or to be contested as in this case.

l. This Honourable Court lacks the jurisdiction to sit on an appeal pending before the Court of Appeal.

m. The Claimant will not be prejudiced if this suit is dismissed.

In support of the application is a 7 paragraphs affidavit deposed to by one Nansat Christopher, Litigation executive in the law firm of counsel to the 3rd Respondent/Applicant.

In line with the procedure, written address was filed, wherein two issues were formulated for determination to wit;

1. **Whether this suit is not an abuse of court process.**
2. **Considering the contentious and serious disputes of fact in the affidavits filed in this suit, whether the suit is properly commenced by origination summons.**

On issue one, **Whether this suit is not an abuse of court process.**

Learned counsel argued that from the totality of the material facts contained in the affidavit in support of this Application as well as the Exhibits attached, that prior to instituting this action in court, the Claimant has instituted this proceedings before his lordship **(Hon. Justice Valentine R. Ashi)** in Suit No.

FCT/HC/CV/411/15 between **Southland Associates Ltd. & Anor Vs. Hon. Minister FCT**. On the same subject matter and same parties with regards the same property (**Plot No. 269 Colorado Street Maitama District, Abuja with Certificate of Occupancy No:660uw – 17355 - 5b69r-fa50u-10**)

It is further the argument of learned counsel that, the subject matter of this instant case is also pending before the Apex Court in **SC/438/2019** between **Chief Christian Uba Vs. Southland Associates Limited & 30rs.**

Counsel submits that there is always a presumption of the validity and bindingness of a judgment/order of Court until it is set aside. He cited ***OBA LAWANI ALADEGBEMI VS. OBA JOHN FASANMADE (1988) 3 NWLR (Pt. 81) 129;***

IN ROSSEK & ORS VS. A.C.B. LTD. & OTHERS (1993) 8 NWLR (Pt. 312) 382 at 471 - 472 were cited.

Learned Counsel also submits that the effect of the foregoing facts is that the Claimant by his action seeks to employ the process of the Court for the purpose of achieving an unlawful end to overreach the 3rd Respondent/Applicant.

Clearly, this Suit is brought mala fide as the Suit indeed seeks to harass, irritate and annoy the 3rd Defendant/Applicant. ***CAPITAL OIL AND GAS INDUSTRIES LIMITED VS. OTERI HOLDINGS LIMITED (2021)1NWLR (Pt. 1758) 483, 497 - 498 C-C was cited.***

It is further the submission of learned counsel that the law is settled, that abuse of court process is in the intention of the claimant and not necessarily in the exercise of the right per se, the Supreme Court PER **NGWUTA, JSC** puts this clearly in the case of ***MOHAMMED VS. GWARZO (2021) 9 NWLR (Pt. 1782) 577, 593, A-D was cited.***

Learned counsel further submits that, it is immaterial if one case is on appeal or not. The moment a final decision has been reached on a matter, instituting a fresh matter whilst the previous one is not yet finally decided constitutes an abuse.

ADESOKAN Vs. ADEGOROLU (1991) 3 NWLR (Pt.179) 293 at 306 was cited.

Learned counsel respectfully urged to prevent the abuse of its process by dismissing the present suit as presently constituted. It is settled that where a proceeding or suit constitutes an abuse of the court's process it has a duty to dismiss it.

NWOSU VS. PDP & 3ORS. (2018) 14 NWLR (Pt. 1640) 532 at 546 D – F was cited.

Learned Counsel submits that this suit ought not to have been commenced by way of an Originating Motion as the law does not provide or permit that cases of this nature should be commenced by Originating Motion. Again, there are serious dispute with regards to the material facts amongst the parties. ***TITILAYO PLASTIC INDUSTRIES LTD. & ORS. VS. FAGBOLA (2019) LPELR – 47606 (SC) was cited.***

Learned Counsel contended that the instant Claimant choose to commence a contentious matter of this nature by way of Originating Motion under Order 2 Rule 6 of the Rules of this Court. There is no law that gives the Claimant or that provide that a case where a party is claiming ownership/title to land should be commenced by way of Originating Motion.

It is the submission of learned counsel that the Claimant's allegations against the Respondents particularly 1st and 2nd Respondents through affidavit evidence are hostile and contentious which requires oral evidence, the Claimant need to be cross – examined which can only be achieved through a Writ of Summons procedure. ***MOHAMMED VS. WAMMAKO (2017)***

LPELR – 42667 (SC) at Pages 20 – 21 Paragraphs G – A; Page 22 paragraph E – F was cited.

The Supreme Court as, in plethora of authorities, laid down the principle of law that Originating Summons procedure is not appropriate for cases in which facts are contentious issues are involved. ***FAGBOLA VS. TITILAYO PLAST. IND. LTD. (2005) 2 NWLR (Pt. 909) 1 at 19 Paragraphs A – B was cited.***

Learned counsel finally submits that, once Rules of Court provides for a particular way for the commencement of an action, a Plaintiff is bound to abide by the Rules of Court. Any infringement or failure to abide by the rules gives the court the power to declare such action incompetent. Counsel refers the court to the case of ***AJAGUNGBADE III VS. ADEYELU II (2001) 2001 16 NWLR (Pt. 738) 126 at 198 Paragraphs D – F.***

Applicant/Respondent filed counter Affidavit in opposition to the 3rd Respondent Notice of Preliminary objection deposed to by one Oluwafemi Popoola, a litigation secretary in the office of the Applicant's counsel.

It is the deposition of the Applicant/Respondent that paragraphs 4b, 4d, 4e, 4f, 4g, 4h, 4i, 4j, 4k, 4l, 4m, 4n, 4o, 4p, 4q, 4r, 4s, 4t, 4u, 4v, 4w, 4x and 4y of the affidavit of the 3rd Respondent/Applicant's Notice of Preliminary objection are false and they accordingly denied.

That cause of action in this suit is based on 1st and 2nd Respondents refusal to assign in favour of the Applicant the property at plot No. A06/2693B, Colorado Close, Cadastral Zone, A06 Maitama (with Certificate of Occupancy No. 660uw – 17355 – 5b69r – fa5ou – 10 covered by file No. OY30441) for which approval of consent had been given on 23rd July, 2014 to the Applicant and necessary fees paid.

That paragraph 4e of the affidavit in support of the 3rd Respondent/Applicant's Notice of Preliminary Objection is denied and refer the court to the last paragraph of page 7 of the judgment delivered by (Coram: Hon. Justice Valentine Ashi in Suit No. FCT/HC/CV/411/15 between **SOUTHLAND ASSOCIATES LTD. & ANOR VS. HON. MINISTER, FCT & ANOR** and further responded that the court in the above mentioned suit only ordered the 1st and 2nd Respondents to register and keep a record

of the Deed of Assignment dated 3rd of May, 2012 and nothing more.

That the Applicant in this suit was never a party to the said suit (Coram: Hon. Justice Valentine Ashi in Suit No. FCT/HC/CV/411/15 between **SOUTHLAND ASSOCIATES LTD. & ANOR VS. HON. MINISTER, FCT & ANOR** as the 1st and 2nd Respondents failed to bring to the notice of this Honourable Court in the above-mentioned suit of the existence of the legal rights of the Applicant to the said property.

That contrary to paragraphs 4h and 4g, when the Applicant in this suit became aware of the judgment in the above mentioned suit, he filed applications for this Honourable Court to set aside the judgment and stay of execution of the judgment of this Honourable Court delivered on 11th March, 2016.

That contrary to paragraph 4j, the Applicant in this suit being dissatisfied with the ruling of this court, filed a motion with Motion No. CA/A/742/M/2017 for leave to appeal as an interested party, the judgment of the trial court in Suit No. FCT/HC/CV/411/15 between **SOUTHLAND ASSOCIATES LTD. & ANOR VS. HON. MINISTER, FCT & ANOR** before the Court of Appeal.

That contrary to paragraphs 4m and 4n the court of Appeal in its ruling in Motion No. CA/A/742/M/2017 held that the Applicant in this suit never showed any interest to Appeal the judgment of this court in suit No. FCT/HC/CV/411/15 between **SOUTHLAND ASSOCIATES LTD. & ANOR VS. HON. MINISTER, FCT & ANOR** to register the deed of execution in favour of the 3rd Respondent in this suit and nothing more.

That the Applicant only appealed the ruling of the court of Appeal with regard to his right appeal this judgment of this court as an interested party.

That contrary to paragraphs 4t, 4u, 4v, 4w and 4x, the now dismissed suit in Suit No. **CV/2938/2020 between Chief Christ Christian Uba Vs. Emmanuel Nnamdi Uba & Ors.** have no bearing on the facts, issues and reliefs pending before this court in this suit and that this suit does not constitute any form of abuse of the court/judicial process.

That paragraphs 5a, 5b, 5c, 5d, 5e, 5f and 5g of the affidavit in support of the 3rd Respondent/Applicant's Notice of Preliminary objection are false and are accordingly denied.

That having not been a party in suit No. FCT/HC/CV/411/15 between **SOUTHLAND ASSOCIATES LTD. & ANOR VS. HON.**

MINISTER, FCT & ANOR, the orders of the court therefrom, which are completely distinct from the reliefs sought in this suit are not binding on the Applicant.

That this suit is in no way contentious nor hostile, as the Applicant in this suit is only seeking this court to interpret and compel the 1st and 2nd Respondents to complete the process they already commenced in Exhibit "A" and issuing the Certificate of Occupancy in favour of the Applicant having paid all the necessary fees.

That this suit is proper and does not abuse the process of court.

That it would be in the interest of justice to dismiss this application as it lacks merit.

In line with the procedure, Applicant/Respondent filed written address wherein they opted to summarize and reply to issues raised by the 3rd respondent to wit;

1. **Whether this suit is not an abuse of Court process**
2. **Considering the contentious and serious disputes of facts in the Affidavits filed in this suit, whether the suit is properly commenced by Originating Summons.**

On issue One, **Whether this suit is not an abuse of Court process.**

Learned counsel in his submission answered this question in the negative that, it is the settled law that the concept of abuse of process is imprecise though it involves circumstances and situations of infinite variety and conditions. A common feature of abuse of process of Court however remains the improper use of judicial process by party in litigation to interfere with due administration of justice. The case of ***CBN VS. AHMED (2001) 11 NWLR (Pt. 742) 369, 408 paragraphs A -B was cited.***

Learned counsel submits that the failure of the 1st and 2nd Respondents to consummate the consent/assignment given to the Applicant in Exhibit D being the subject matter of this suit has never been adjudicated upon by any Court of competent jurisdiction before this suit as presently constituted. He cited ***ADEGBANKE VS. OJELABI (2023) 4 NWLR (Pt. 1875) 481 514 515 paragraphs H- B.***

Learned counsel further submits on the above that this suit is brought under the relevant and appropriate judicial procedure seeking the judicial review of the actions of the 1st and 2nd Respondent against the Applicants rights.

Learned counsel urges the Court in line with the carefully articulated submissions to dismiss the 3rd Respondents arguments on issue one.

On issue two, **Considering the contentious and serious disputes of facts in the Affidavits filed in this suit, whether the suit is properly commenced by Originating Summons.**

It is the argument of the learned counsel that a careful review of the record of this Honorable Court would show that this suit was commenced via judicial review procedure of order 44 of the High Court of the Federal Capital Territory (Civil Procedure 2018, that in line with this Order, the Applicant in this suit sought and obtained the leave of this court to commence this suit via the judicial review procedure, after which the 1st and 2nd Respondent were served with the Originating Motion in this suit and the accompanying documents in line with Order 44 Rule 5 of the High Court Civil Procedure 2018.

Learned counsel further argued that it is abundantly clear that the Originating Motion procedure is permissible as the mode of commencement after the leave of the Court has been sought and obtained.

Learned counsel in conclusion urge the Court to discountenance the submissions of the 3rd Respondent that the suit is for claiming title to landed property, as this suit is rather to complete the perfection process of the rights of the Applicant as shown in Exhibit "D" and "E" series.

The Court is urge to dismiss the submissions of the 3rd Respondent in the Notice of preliminary Objection for lacking in substance and indeed frivolous.

COURT:

I have considered the respective averments contained in the affidavit and counter affidavit, on the one hand, and the legal argument on the other hand... of particular interest to is the objection raised on the jurisdiction of this court to determine the suit of the Claimant issues of jurisdiction which is threshold, is very vital and fundamental in our jurisprudence and it is settled that once jurisdiction of a court is challenged, it is important for same to be determined.. jurisdiction of a court can be challenged as a matter of procedure or law.

Whereas procedural jurisdiction can be waived by a party, the jurisdiction conferred on a court by a statute cannot be waived or donated by parties. For example, subject matter, parties.

There must also not be any feature in the case which prevents the court from the exercise of its jurisdiction.

See MADUKOLU VS. NKEMDILIM (1962) 2 SCNLR 341.

Learned counsel for the 3rd Defendant/Applicant has drawn the attention of this court to the existence of an appeal which arose from the initial application filed by the Claimant/Respondent who sought to be joined in a matter related to this but was not so joined, hence the Appeal to the Supreme Court in Appeal No. SC/438/2019 between Chief Christian Uba Vs. Southland Associates Ltd. & Ors.

The pendency of the said suit is indeed the snack here as stated in ***MADUKOLU (Supra)***.

Having approached the Supreme Court which is the apex court of the land, this court cannot then be competent to hear this matter. I shall for above reason decline jurisdiction. Accordingly, Suit No. **CV/2415/2021 is hereby struck – out.**

***Justice Y. Halilu
Hon. Judge
2nd May, 2024***