

IN THE HIGH COURT OF THE FEDERAL CAPITAL TERRITORY

IN THE ABUJA JUDICIAL DIVISION

HOLDEN AT COURT 10, AREA 11, GARKI, ABUJA

BEFORE HIS LORDSHIP: HON. JUSTICE S. B. BELGORE

MOTION NO. FCT/HC/M/1338/2024

DATE: 02-07-2024

B E T W E E N

- | | | |
|--|---|-------------------|
| <ol style="list-style-type: none">1. ARC. CHIJOKE ONUOHA2. FIRST ATLANTIC INVESTMENT COMPANY LTD. | } | APPLICANTS |
|--|---|-------------------|

AND

- | | | |
|---|---|--------------------|
| <ol style="list-style-type: none">1. NIGERIA POLICE FORCE2. INSPECTOR GENERAL OF POLICE3. ASSISTANT INSPECTOR GENERAL OF POLICE,
ZONE 2, LAGOS4. ACP OGUNSAKIN GBENGA, ZONAL
INTELLENCE DEPARTMENT (ZID)5. MRS. UCHECHI NKECHI EVOH | } | RESPONDENTS |
|---|---|--------------------|

R U L I N G

(DELIVERED BY HON. JUSTICE S. B. BELGORE)

The two Applicants vide a Motion Ex-parte with Motion No. M/1338/2024 dated and filed the 28th day of June, 2024 prayed this Court for the following orders to wit:-

1. An Order of Interim Injunction restraining the 1st – 4th Respondents whether acting at the instigation of the 5th Respondent or by themselves, their subordinates, officers, servants, agents and privies from further intimidating, harassing, arresting and/or detaining the 1st Applicant in violation and/or in breach of the 1st Applicant's fundamental human rights constitutionally guaranteed under the provisions of Chapter IV of the Constitution of the Federal Republic of Nigeria, 1999 (As Amended) and Articles 5 and 6 of the African Charter on Human and People's Right (Ratification and Enforcement Act) pending the determination of the originating Motion filed along with this application.
2. An Order of Interim Injunction restraining the 1st – 4th Respondents whether acting at the instigation of the 5th Respondent or by themselves, their subordinates, officers, servants, agents and privies from taking any further actions

infringing on the 1st Applicant's constitutionally guaranteed rights enshrined in Chapter IV of the Constitution of the Federal Republic of Nigeria, 1999 (As Amended) and Articles 5 and 6 of the African Charter on Human and People's Right (Ratification and Enforcement Act) pending the determination of the originating Motion filed along with this application.

3. An Order mandating the Respondents to maintain the status quo further to this application pending the hearing and determination of the originating Motion filed along with this application.
4. And for such further or other order(s) as this Honourable Court may deem fit to make in the circumstances.

Two orders of interim injunction and two other reliefs as stated above.

It is brought pursuant to Order 2 Rules 1, 2, 3 and 5 of the Fundamental Rights (Enforcement Procedure) Rules 2009 and Articles 5 and 6 of the African Charter on Human and Peoples' Right, Cap. 4 of the 1999 Constitution of Nigeria (As Amended)

and Order 43 Rule 1 of the Rules of this Court and under the inherent jurisdiction of this Court.

The application is predicated on 16 grounds as contained in the Motion papers. They are as follows;

- a) By virtue of Section 35 of the 1999 Constitution of the Federal Republic of Nigeria 1999 (As Amended) (Constitution) and Article 6 of the African Charter on Human and People's Rights, the Applicant is entitled to his liberty and may not be arbitrarily arrested or detained.
- b) The Respondents instigated the unlawful arrests and detention of the Applicant and thereby curtailed the Applicant's liberty without any legal justification whatsoever.
- c) By virtue of the provision of Section 35(4 & 5) of the Constitution of the Federal Republic of Nigeria 1999 (As Amended), it is settled that where there is a Court within radius of 40 kilometers from the place of the arrest or detention, a detainee (which was the Applicant in this case) shall not be detained beyond one day and

shall entitled to be brought before a Court of law within such time.

- d) By virtue of Section 36 of the Constitution and Article 7 of the African Charter on Human and People's Right, in the determination of his civil right and obligations, every person shall be afforded the opportunity to defend himself before a competent Court.
- e) The Applicants are law-abiding organization which abides by the law and has not committed any crime whatsoever. The continued harassment of the Applicants by the 2nd – 4th Respondents amounts to a breach of the Applicant's fundamental rights.
- f) Section 41 of the Constitution enshrines and guarantees the right of the Applicants to move freely and this right has been threatened to be breached by the 1st – 3rd Respondents as they have instructed the 4th Respondent to arrest the 1st Applicant.
- g) The actions of the Respondents aforesaid have violated and continue to violate the Applicant's fundamental rights as guaranteed and enshrined in the constitution

and the African Charter on Human and Peoples' Right (Ratification and Enforcement).

- h) Unless restrained by this Honourable Court, the Respondent will continue to infringe on the fundamental rights of the Applicants as afore-stated as the 1st, 2nd and 3rd Respondents have clearly shown that they are out to do so.
- i) The 1st Applicant was arrested and detained in violation of the provisions of Sections 34, 35, 36 and 41 of the Constitution of the Federal Republic of Nigeria 1999 (As Amended).
- j) The failure of the 2nd – 4th Respondents to adhere to the provisions of Sections 35 and 36 in the investigation of the 1st Applicant amounts to a violation of the 1st Applicant's right under the Constitution.
- k) The actions of the 2nd – 4th Respondents in arresting and detaining the 1st Applicant constitutes a gross abuse of their powers under the relevant laws establishing the 1st Respondent and governing the operation and activities of the 2nd – 4th Respondents.

- l) The investigative powers of the 2nd – 4th Respondents does not include powers to harass, intimidate or humiliate the 1st Applicant as done by the 3rd and 4th Respondents in this case.
- m) The investigation of the 1st Applicant by the 1st – 4th Respondents is malicious, vindictive and a clear act of oppression against the 1st Applicant.
- n) The rights created under Chapter IV of the Constitution are sacrosanct and cannot be derogated from except in the manner specified under the Constitution.
- o) That any non-compliance with the 1st Applicant's rights under Chapter IV of the Constitution is a fundamental breach that entitles the Applicant to the protection of this Honourable Court and compensation by the Respondent.
- p) This Honourable Court has the vires to grant this application.

In support is an affidavit of 60 paragraphs deposed to by 1st Applicant. There is also an affidavit of urgency of 23 paragraphs

by the 1st Applicant. Attached to the affidavit in support are 13 Exhibits marked as Exhibits 01 – 013.

Also, attached to the affidavit of urgency is one Exhibit which is Exhibit A.

In compliance with the rules of this Court, a written address was filed.

Mr. TosanOpabor of Counsel to the Applicants relied on all the depositions contained in the 2 affidavits and the Exhibits attached.

He also adopted the arguments contained in his written address as his full arguments in this application and therefore he urged me to grant the application.

In his written address, he submitted one issue for determination to wit:

“Whether from the totality of the affidavit evidence before this Honourable Court, the Applicants have made out a case that warrant the exercise of this Honourable

Court's discretion in its favour by granting the orders sought in this application"

I have considered and held that the Applicants had crossed all the hurdles to be entitled to the grant of this application, I therefore without further rigmaroling grant this application as prayed.

.....

S. B. Belgore

(Judge) **02-07-2024**