

**IN THE HIGH COURT OF THE FEDERAL CAPITAL TERRITORY**  
**IN THE ABUJA JUDICIAL DIVISION**  
**HOLDEN AT GARKI – F.C.T. – ABUJA**

**CLERK:** CHARITY ONUZULIKE  
**COURT NO.** 9

**SUIT NO:** FCT/HC/CV/7915/2023  
**MOTION:** M/10303/2024  
**DATE:** 15/11/2024

**BETWEEN:**

**HOSA PROPERTIES DEVELOPMENT LIMITED.....CLAIMANT**

**AND**

**PRINCE AND PRINCESS PROPERTIES NIG. LTD.....DEFENDANT**

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

This is an application brought pursuant to Section 6 (6) of the 1999 Constitution of the Federal Republic of Nigeria (As Amended), Order 13 Rules 8, 18(3) of the FCT High Court (Civil Procedure) Rules 2018 and under the inherent jurisdiction of this Honourable Court.

The Motion is supported by an affidavit deposed to by Oluchi Richard. The Motion seeks the following prayers:

1. **LEAVE** of this Honourable Court for the Claimant to apply to join the Hon. Minister, Federal Capital Territory as the 2<sup>nd</sup> Defendant to the substantive Suit No. FCT/HC/CV/7915/2023, Hosa Properties Development Limited v. Prince and Princess Properties Nig. Limited.

2. **AN ORDER** of this Honourable Court joining the Hon. Minister, Federal Capital Territory as the 2<sup>nd</sup> Defendant, to the substantive Suit No: FCT/HC/CV/7915/2023.
3. **LEAVE** of this Honourable Court for the Claimant to amend the Writ of Summons and other accompanying processes, to add further facts and claims and also reflect the Joinder of the Hon. Minister, Federal Capital Territory.
4. **AN ORDER** of this Honourable Court granting the Applicant leave of 7 days to file and serve the Amended Writ of Summons in line with Exhibit 1 hereto and other accompanying processes.
5. **AN ORDER** of this Honourable Court directing the Defendant/Respondent to consequentially amend all processes filed, to reflect the Joinder of the Hon. Minister, Federal Capital Territory, as the 2<sup>nd</sup> Defendant.
6. **SUCH FURTHER OR OTHER ORDER(S)** as this Honourable Court may deem fit to make in the circumstances.

In line with the Rules of this Honourable Court, the applicant also filed this Written Address in support of the Motion.

The Defendant/Respondent, in opposition to the Motion filed a 6-paragraph counter-affidavit on 10/7/2021. They also filed a written address.

On 23/9/2024, the learned Counsel to the Claimant/Applicant, Mr. A. U. S. Oguajamma moved the application summarily. He referred to the affidavit evidence and adopted the written address as his argument. Learned Counsel urged me to grant the Application.

Mr. James Hope of Counsel to the Defendant's/Respondent also replied summarily. He referred to the contents of their affidavits, and adopted his written address as his argument and urged me to reject the application.

I have considered the application. I agree with both Counsels that only one issue calls for determination in this case to wit: **“Whether in the circumstances of this case, the Claimant/Applicant is entitled to the prayers sought in this application.”**

For a start, Order 13 Rule 18(3) of the FCT High Court (Civil Procedure) Rules, 2018, provides as follows:

***“The Court may order that the names of any party who ought to have been joined or whose presence before the Court is necessary to effectually and completely adjudicate upon and settle the questions involved in the proceedings be added.”***

It is important for us to emphasize that even in situations where a Claimant is uncertain as to who he is entitled to seek a particular redress, the Rules of this Honourable Court still permit the Claimant to proceed against all persons likely to be liable or involved in, or affected by, the execution of the Judgment. Order 13 Rule 8 of the FCT High Court (Civil Procedure) Rules, 2018 provides thus:

***“Where a claimant is in doubt as to the person from whom he is entitled to redress, he may, in accordance with this Rules, or as may be prescribed by any special order, join two or more defendants, so that the question as to which, if any, of the defendants is liable and to what extent, may be determined as between all parties.”***

In the case of **Akpangbo-Okadigbo & Ors. V. Chidi & Ors. (2015) LPELR – 24564 (SC) Per Onnoghen, JSC at pg 36-37, paras. D-A**, your learned brothers at the Supreme Court described situation that will lead to joinder of party in a pending Suit. Instructively and to buttress the harmless nature of joinder of necessary parties, the Court held that such order for joinder can even be made suo motu, thus:

***“It is settled law that a court may, on application, or suo motu order the joinder of a party where: (i) The party is aggrieved or likely to be aggrieved by the result of the litigation to the extent that he will be directly, legally or financially affected by the result of the litigation. (ii) to avoid multiplicity of suits arising from the same subject matter or res (iii) to enable the court fully, completely and effectually deal with the Suit in order to frustrate or stop a possible future litigation on the subject matter; (iv) to ensure that the principles of fair hearing under section 36 of 1999 Constitution as amended and rules of natural justice particularly the rules of audi alteram partem (hear both sides) are not breached (v) to avoid loss of jurisdiction by the fact of non-joinder. However, see Uku v. Olumagba (1974) 3 SC 35; Green v. Green (1987) 3 NWLR (Pt. 61) 4580; Ige v. Farinde (1994) 7-8 SCNJ (pt. 2) 284 etc”***

In the affidavit in support of the instant application, the deponent deposed to relevant facts necessitating the need for this Honourable Court to join the persons sought to be joined to the instant Suit. We submit that the joinder sought herein is to enable this Court fully, completely and effectually deal with the Suit in order to avoid or stop a possible future litigation on the subject matter, as decided in **Akpangbo-Okadigbo & Ors. v. Chidi & Ors. (Supra)**.

Indeed, granting an application of this nature is at the discretion of this Honourable Court, which discretion shall be exercised judicially

and judiciously. We humbly refer to the case of **ACN & ORS v. Labour Party & Anor (2012) LPELR-8003 (CA)** where it was held thus:

***“Leave’ simply means permission, and the consideration of an application for leave calls for the exercise of discretion. It was so held in Olumegban v. Kareem (2002) FWLR (Pt. 107) 1145 at 1151 that: Whenever leave of the Court is a condition precedent for a right, the discretion of court is implied.”***

We further refer to the case of **Nkwocha & Ors v. MTN Nigeria Communications Ltd & Anor (2008) LPELR-8494 (CA)** where it was held thus:

***“In exercising its discretion, the court must act judicially and judiciously and not arbitrarily or capriciously but in accordance with established principle of law on sufficient material. Saffieddine v. COP (1965) 1 All NLR 54; Ugbonna v. Olize (1971) 1 All NLR 8; Ogar v. James (2001) 10 NWLR (Pt. 722) 621; Per Odili JCA (P. 31, para. F-G).***

In **Gbadeyan v. Unilorin (2014) LPELR-24307 (CA)** it was held as follows:

***“A Court will therefore be said to have exercised its discretion judicially and judiciously when it examines and decides on the facts and circumstances of the case based on the spirit of the law and rules of court with justice as the end product.” Per Onyemenam, JAC (P. 20, para. A-B).***

Perhaps I should stress that the person sought to be joined is not entitled to be heard on an application filed by a party to the Suit seeking for his joinder. Not being a party to the Suit, the persons sought to be joined need not be served the instant application and

they cannot file a Counter-affidavit to the application. We refer to the case of **Somide v. Oganla (2017) LPELR-42366 (CA)** where it was held:

***“Having found as above, the next question is; whether the party sought to be joined was competent to file a Counter Affidavit opposing the Motion to join him in the proceeding? The law is trite, that it need no citing of any authority that, a person who is not a party to a dispute cannot be heard in the dispute. The fact that he is a person interested in the outcome of the Suit is irrelevant. To secure the right to be given an opportunity to be heard, he must be specifically joined as a party to the dispute. In the instant case, the party sought to be joined was yet to be joined as a party nor any of the processes, including the Motion seeking to join him, served on him. He simply jumped into the fray, upon being shown the Motion seeking to have him joined in the matter. I am of the view that the filing of the Counter Affidavit in opposition to the Motion for joinder, was done in abuse of Court process.*”**

I am of the view that refusing the instant application will occasion great injustice on the Claimant herein. I therefore exercise the discretion of this Honourable Court in favour of the Claimant/Applicant and grant the prayers sought in the instant application in the interest of justice, equity and fairness.

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**S. B. Belgore**  
(Judge) 15/11/2024

**APPEARANCES:**

A.U.S. Oguajamma, Esq. for the Claimant

G. I. Enenche for the Defendant