

IN THE HIGH COURT OF THE FEDERAL CAPITAL TERRITORY
IN THE ABUJA JUDICIAL DIVISION
HOLDEN AT GARKI ABUJA

CLERK: CHARITY ONUZULIKE
COURT NO. 9

SUIT NO: FCT/HC/CV/4640/2024
MOTION NO: 14009/2024
DATE: 25/10/2024

BETWEEN:

OML 18 ENERGY RESOURCES LIMITED..... CLAIMANT/APPLICANT

AND

- | | | |
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| <ol style="list-style-type: none">1. NIGERIAN NATIONAL PETROLEUM COMPANY LIMITED2. MINISTER OF PETROLEUM RESOURCES | } | DEFENDANTS |
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RULING

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

This Ruling concerns the Motion *Ex-parte* **M/14009/2024** filed at the instance of the Claimant/Applicant. It is dated 22/10/2024 and filed on 24/10/2024. It is brought pursuant to section 6(6), section 36 of the 1999 Constitution (as amended); Order 42 Rule 4(1)(8), Order 43 Rule 3 of the Rules of this Court. It seeks for four (4) principal reliefs; to wit;

- (1) **AN ORDER OF INTERIM INJUNCTION** restraining the 2nd Defendant/Respondent whether acting by himself, his officers, staff, employees, servants, assigns, privies, representatives, agents howsoever called or described from granting consent to the 1st Defendant/Respondent to sell, trade, allocate, transfer or dispose of its interests in the Oil Mining Lease (OML) No. 18 pursuant to the Joint Operating Agreement (JOA) entered into by the Claimant and the 1st Defendant/Respondent dated 11th July, 1991

pending the hearing and determination of the Motion on Notice or when the Arbitral Tribunal is duly constituted and can make interim preservative orders (whichever is earlier).

- (2) **AN ORDER OF INTERIM INJUNCTION** restraining the 1st Defendant/Respondent whether acting by itself, its officers, staff, employees, shareholders, servants, assigns, privies, representatives, subsidiaries, agents howsoever called or described from continuing, proceeding with, taking any step(s) or other/further step towards selling, trading, allocating, transferring or disposing of its interests in the Oil Mining Lease (OML) No. 18 pursuant to the Joint Operating Agreement (JOA) entered into by the Claimant and the 1st Defendant/Respondent dated 11th July, 1991 pending the hearing and determination of the motion on notice or when the Arbitral Tribunal is duly constituted and can make interim preservative orders (which is earlier).
- (3) **AN ORDER OF INTERIM INJUNCTION** restraining the 1st and 2nd Defendants/Respondents from taking any step(s) or action(s) which may negatively impact the Claimant/Applicant's right and interests under Article 19 of the JOA pending the hearing and determination of the Motion on Notice or when the Arbitral Tribunal is duly constituted and can make interim preservative orders (whichever is earlier).
- (4) **AN ORDER GRANTING A DEPARTURE FROM THE HIGH COURT OF THE FEDERAL CAPITAL TERRITORY (CIVIL PROCEDURE) RULES 2018 AND DIRECTING** that notwithstanding the provision of Order 43 Rule 3(2) of the High Court of the Federal Capital Territory, Abuja (Civil Procedure) Rules 2018 the Interim Order granted in respect of relief 1 in this application shall not abate and shall continue to subsist until the hearing of the Claimant/Applicant's Motion on Notice or when the

Arbitral Tribunal is duly constituted and can make interim preservative orders (whichever is earlier).

The Motion is anchored on 17 grounds; to wit:

- (1) The Claimant/Applicant is a private company duly registered under the laws of the Federal Republic of Nigeria having its registered address at 7A, Oluwa Road, Ikoyi, Lagos.
- (2) The 1st Defendant/Respondent is a Company duly registered under the laws of the Federal Republic of Nigeria and the successor company of the Nigerian National Petroleum Corporation having its head office at NNPC Towers, Herbert Macaulay Way, Central Business District, Abuja. The 1st Defendant/Respondent was established pursuant to Section 53 of the Petroleum Industry Act, 2021.
- (3) The contractual relationship between the Claimant/Applicant and the 1st Defendant/Respondent has concluded and finalized its plan to sell/transfer its interests to a 3rd party without giving the Claimant/Applicant the right of first refusal to acquire the same.
- (4) By virtue of Article 19.4 of the JOA, the 1st Defendant/Respondent ought to give the Claimant/Applicant a right of first refusal before taking any step towards selling, transferring, or disposing of, divesting of its interests in the JOA to a 3rd party.
- (5) By virtue of Article 19.4 of the JOA, the 1st Defendant/Respondent ought to give the Claimant/Applicant a right of first refusal before taking any step towards selling, transferring, or disposing of, divesting of its interests in the JOA to a 3rd party.

- (6) In furtherance of its plan to sell/transfer its interest under the JOA in breach of Article 19.4 of the JOA, the 1st Defendant/Respondent by letter dated 30th July, 2024 gave notice to the Nigerian Upstream Petroleum Regulatory Commission (NUPRC) of its intention to assign 30% (thirty percent) of its 55% (fifty-five percent) interest in OML 18 to INDORAMA (i.e. Indorama fertilizer & Petrochemical Ltd).
- (7) In response to the 1st Defendant/Respondent's letter of 30th July, 2024 the NUPRC, in furtherance of its statutory powers, by letter dated 2nd August, 2024 granted its approval to the 1st Defendant/Respondent to go ahead with the assignment of 30% (thirty percent) of its 55% (fifty-five percent) interest in OML 18 to INDORAMA.
- (8) The 1st Defendant/Respondent has now approached the 2nd Defendant/Respondent to obtain requisite consent to assign 30% (thirty per cent) of its 55% (fifty-five percent) interest in OML 18 in flagrant disregard of the Claimant/Applicant's pre-emptive right as conferred under Article 19.4 of the JOA.
- (9) In addition the 1st Defendant/Respondent has consciously and deliberately represented to unsuspecting members of the public vide a renowned Oil and Gas Publication i.e., African Oil + Gas Report that Indorama has taken 30% (thirty percent) operatorship in OML 18.
- (10) The 1st Defendant/Respondent has no intention to honour its obligation under Article 19 of the JOA by first offering its interest to the Claimant/Applicant for it to exercise its right of first refusal to purchase the same.
- (11) The Claimant/Applicant has approached this Honourable Court in resolving this dispute against the 1st Defendant/Respondent to enforce its right of first refusal

to purchase the 1st Defendant's interests in line with Article 19.4 of the JOA.

- (12) If this application is not granted, there is a high possibility that the 1st Defendant/Respondent will finalize and conclude its plans to sell and transfer its interests in the JOA to a 3rd party before the hearing and determination of this suit or when the Arbitral Tribunal is duly constituted and can make interim preservative orders.
- (13) It is, therefore, necessary that this Honourable Court grants this application to restrain the Defendants/Respondents from taking any step or further step towards the sale or transfer of the 1st Defendant/Respondent's interest under the JOA pending the hearing and determination of this suit or when the Arbitral Tribunal is duly constituted and can make interim preservative orders.
- (14) The Claimant/Applicant has a legal right to protect in this application as well as the substantive suit and the prospective arbitration.
- (15) The substantive suit has presented serious issues of law and facts for the determination of this Honourable Court.
- (16) The balance of convenience is in favour of the Claimant.
- (17) The Claimant/Applicant undertakes to indemnify the Defendants/Respondents as to damages should this application be found to be frivolous.

In support is a 57-paragraphs affidavit deposed to by one Tolu Fadipe with 8 Exhibits marked variously as Exhibits Sahara 1 – 8.

In line with the Rules of the Court, he filed a written address. And in view of the urgency of this matter, he also filed an Affidavit of

Urgency of 48 paragraphs. It is deposed to by the same Tolu Fadipe and filed on the same 23/10/2024. He relied on all the processes and documents in urging this Court to grant his application.

I have considered this Motion Ex-parte summarily as it was moved by the learned Counsel to the Claimant/Applicant.

I have adverted critically to the affidavit of urgency filed and affidavit in support of this motion. I have equally went through the written address filed along with this motion.

I found considerable merit in this application and it is therefore granted pending the hearing and determination of the Motion on Notice – M/14008/2024.

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S. B. Belgore

(Judge) 25/10/2024