

**IN THE HIGH COURT OF THE FEDERAL CAPITAL TERRITORY
IN THE ABUJA JUDICIAL DIVISION
HOLDEN AT GARKI, ABUJA - FCT**

**CLERK: CHARITY ONUZULIKE
COURT NO. 10**

**SUIT NO: FCT/HC/CV/5038/23
DATE: 24/9/2024**

BETWEEN:

SEN. ANDY E. UBA..... APPLICANT

AND:

- | | | |
|--|---|--------------------|
| <ul style="list-style-type: none">1. PANIC ALERT SECURITY SYSTEM LTD2. CLEAN VISION AND COMPANY LIMITED3. GORGE UBOH4. BENJAMIN ETU5. INSPECTOR GENERAL OF POLICE6. ASSISTANT COMM. OF POLICE,
MUSA IBRAHIM7. ASSISTANT SUPERITENDENT OF
POLICE-DAUDA YAKUBU8. ASSISTANT SUPERITENDENT OF
POLICE-DUNIYA SHEHU | } | RESPONDENTS |
|--|---|--------------------|

RULING
(DELIVERED BY HON. JUSTICE SULEIMAN B. BELGORE)

It would be re-called that so soon after this Court granted an interim injunctive order in favour of the applicant on 17/5/2023, the applicant’s Counsel on 28/5/2024 (this was after series of adjournment on 30/5/2023, 9/11/2023, 18/1/2024, 5/2/2024) brought an application vide a Motion on Notice – M/788/2023 – asking principally for leave to amend the originating process in this case. The originating process is M/9011/2023, brought pursuant to the

provisions of the Fundamental Rights (Enforcement Procedure) Rules, 2009.

On that day, I granted the prayer sought for the amendment of the Originating Motions.

After the order was granted, the learned Counsel to the applicant, sought for an adjournment to enable him “put his house in order”. I adjourned the matter to 2/7/2024 for the originating Motion to be taken. This is ostensibly on the reason or idea that an amendment to the Motion would be effected and served on the Respondents in line with the order of the Court.

Subsequently, the Court could not sit on 2/7/2024 and the Court went on vacation. But before that, we fixed a new date for hearing of the originating Motions and this was duly communicated to all the parties. See the proof of service of the Hearing Notices on the parties as effected on 19/8/2024.

Now, this morning of 24/9/2024 which is the date for hearing of the Originating Motion, the applicants and his Counsel who set the ball rolling are not in Court. No reason has been communicated to the Court for their absence. And to make the matter worse, no amendment has been effected on the originating Motion and none was filed nor served on the parties.

The above facts portend one factual situation to me. The applicant is foot dragging and appears not to be desirous of pursuing this case.

Let me divert a bit. The 1st and 3rd, 5th – 8th Respondents Counsel has asked me to deem their address which accompanied the originating Motion – M/9011/2023 as adopted. But is this visible in the circumstances of this case? My answer is in the negative. The applicant has not comply with the order to amend the originating Motion which they on their own freely sought from this Court.

Meaning they are treating the Court order with levity and thereby giving the impression that they are not serious. We should not forget that they have an order of interim injunction in their favour as far back as 17/5/2023. This facts speaks volume and I am free to feel that it is because of that state of affairs that they exhibiting this uncare attitude. Though, it should not be especially on the background of the fact that the interim injunctive order was given *ex-parte*.

Now, be that as it may, it is clear to me that that having not comply with the order to amend the originating Motion, and the order having not been set aside, there is nothing before me to deem as adopted as prayed for by these two Counsel a few minutes ago. What is the way forward now? It is my strict view that and order striking out this suit for lack of diligent prosecution would be fair to all parties at this moment and I so do.

In clarity, this case is hereby struck out (not dismiss).

Signed
S. B. Belgore
(Judge) 24/9/24