

**IN THE HIGH COURT OF JUSTICE OF THE F.C.T.**

**IN THE ABUJA JUDICIAL DIVISION**

**HOLDEN AT ZUBA, ABUJA**

**ON FRIDAY THE 2<sup>ND</sup> DAY OF MAY, 2025**

**BEFORE HIS LORDSHIP: HON. JUSTICE K. N. OGBONNAYA**  
**JUDGE**

**SUIT NO.: FCT/HC/CV/201/2023**

**BETWEEN:**

**EMESIABUM NNAMDI FRED       -----       APPLICANT**

**AND**

**ABUJA MUNICIPAL AREA COUNCIL (AMAC) - RESPONDENT**

## **JUDGMENT**

In this FREP Suit, on the 1<sup>st</sup> day of December, 2023, the Applicant, Emesiabum Nnamdi Fred sued Abuja Municipal Area Council (AMAC) claiming the following Reliefs:

- a. A Declaration by this Honourable Court that the locking up/sealing of the entire premises/compound known and described as No. 78 Zone E, Apo Resettlement, Apo, Abuja, containing different offices, buildings and businesses whose staff and operators were still at work on that fateful 9<sup>th</sup> day of November, 2023, and within

the compound at the time of the sealing/locking, which locking/sealing carried out by the Abuja Municipal Area Council, involuntarily confined them to the compound for more than three and half hours premised on a purported Court Order not directed at them but obtained/directed against only one of the several businesses (Park "N" Eat Amala Restaurant) whose office is clearly separate from the rest, amounts to an unlawful confinement of those innocent of the said Court Order, and an infringement of their Rights to personal liberty as guaranteed by Section 35 of the 1999 Constitution of the Federal Republic of Nigeria (as amended).

- b. A Declaration by this Honourable Court that the locking up/sealing of the entire premises/compound known and described as No. 78 Zone E, Apo Resettlement, Apo, Abuja, containing different offices, buildings and businesses including that of the Applicant who was to the knowledge of the Respondent still at work in his law office within the compound at the given time on the 9<sup>th</sup> day of November, 2023, which locking/sealing carried out by the Abuja Municipal Area Council, involuntarily confined the Applicant to the compound for more than three and half hours premised on a purported Court Order not directed at his law office but obtained/directed against only one of the several

businesses (Park "N" Eat Amala Restaurant) whose office is clearly separate from the rest, amounts to an unlawful confinement of the Applicant and his staff, and an infringement of his Rights to personal liberty as guaranteed by Section 35 of the 1999 Constitution of the Federal Republic of Nigeria (as amended).

- c. A Declaration of this Honourable Court that the Respondent's refusal to particularize its enforcement of the said purported Court Order on the affected business office in the compound by ensuring that only that particular business against whom the Order was obtained is sealed, amounts to flagrant abuse of power and a clear negation of due process.
- d. An Order of this Honourable Court ordering the Respondent to unseal/unlock the general gate to the premises for ease of movement of the Applicant and other residents of the compound and particularize/restrict their enforcement of the said Court Order on the precise business against whom it is directed.
- e. An Order of this Honourable Court ordering the Respondent to pay the Applicant the sum of ₦50,000,000.00 (Fifty Million Naira) only as general damages for breach of his Fundamental Human Right to personal

liberty, the effects of the continued locking/sealing of the compound and in deterrence to such abuse of power and negation of due process.

- f. And for such further or other Orders as this Honourable Court may deem fit to make in the circumstance, in the overall interest of justice.

### **GROUND UPON WHICH THE RELIEFS ARE SOUGHT:**

- a. The Applicant, Mr. Emesiabum Nnamdi Fred is a legal practitioner with his practicing in the FCT with his law office at No. 78, Apo Resettlement, Apo, Abuja.
- b. That at about 4 pm on 9<sup>th</sup> November, 2023, the Applicant was in his law office, having returned from Court where he appeared before Hon. Justice E.N. Maha of Federal High Court room 13, Abuja.
- c. On hearing people shouting in the compound, he came out and asked what was going on, and was informed that officials of the Abuja Municipal Area Council (AMAC) were at the entrance gate of the compound and had just locked up the entrance gate into the compound.
- d. The Applicant approached the entrance gate where the said AMAC officials were standing on the opposite side of the gate and asked them why they locked up the entrance gate of the office/compound, and they said they have a Court Order to lock up Park "N" Eat Amala Restaurant for failure to pay AMAC levy for AMAC Environmental Health for Food Handling.
- e. The Applicant explained to them that there are several businesses sharing the same compound with the said Park "N"

Eat Amala Restaurant, including his law firm, but they said they didn't care.

- f. The premises known, described and referred to as No. 78 Apo Resettlement, Apo, Abuja, has three detached and semi detached buildings housing several offices inside the compound amongst which are:
1. Top Class Solicitors.
  2. B & B Ltd.
  3. Mashav Projects.
  4. LorexByFlir.
  5. Boma Geophysical Consult Ltd.
  6. Best of the Best Grassroots Development Initiative.
  7. Centre for Japanese Technology Acquisition and Transfer.
  8. The Country Office of International Institute for Africa Defence, Security and Governance.
  9. Park n Eat Amala Restaurant.
- g. The Abuja Municipal Area Council refused to restrict their enforcement to the affected Restaurant, but went ahead to seal the entrance gate, effectively confining/detain the Applicant inside the compound and left.

He supported the application with Affidavit of 25 paragraphs. He attached 3 documents – Tenancy Agreement between B & B Limited (Landlord) and Top Class Solicitors' Tenancy, Letter of Appointment of External Solicitor in respect of **Suit No. CR/394/2023, Federal Republic of Nigeria V. Jude Peters Ochogu** showing seal Order from Court by AMAC.

In their Written Address the Applicant raised a sole Issue for determination which is:

**“Whether the unlawful confinement of the Applicant and the undue restriction of his movement to his office premises against his wish for more than three and half hours by the Respondent and/or its Agents without conforming to any of the grounds provided for in S. 35 (1) (f) of the 1999 Constitution of the Federal Republic of Nigeria (as amended) amounts to the violation of his Right to freedom of movement and personal liberty.”**

He submitted that the action of the Respondent violates his Right to freedom of movement and personal liberty. He relied on the case of:

**Ezigbo & Anor V. Asco Investment Ltd & Anor  
(2022) LPELR – 56864 Para D**

That the Respondent is in breach of his Right as alleged. They referred to the cases of:

**Mustapha V. Gov. Lagos State  
(1982) 2 NWLR (Pt. 58) 53 @ 589**

**Lady Care Hair Product Co. Ltd V. Nwakwelu & Anor  
(2021) LPELR – 56043 CA Pp. 32 – 33 Para E**

That there is nothing in the action of the Respondent against the Applicant that conforms with the said laid down basic procedure and conditions for lawful deprivation. That the action of the Respondent was flagrant abuse of powers and total negation of due process.

That by **S. 46 (1) of the 1999 Constitution of the Federal Republic of Nigeria** (as amended) he is entitled to seek

redress in Court for enforcement of those violated Rights by the Respondent. That he is also entitled to compensation for the violation of such Rights. They referred to the case of:

**Lagos State University (LASU) V. Ganiyu & Anor (2022) LPELR – 56873** on what constitute personal liberty.

That the attention of the Respondent was drawn to the need to do the right thing and the rebutted the suggestion via glaring show of impunity. That he is entitled to compensation for the violation of such Right. They relied on the case of:

**Lagos State University (LASU) V. Ganiyu & Anor supra**

The Applicant referred to **S. 35 (6) of the 1999 Constitution of the Federal Republic of Nigeria** (as amended) and urged the Court to grant judicial and judicious compensation to him and grant all the other Reliefs as sought in the interest of justice as here is no legal justification for the action of the Respondent.

The Respondent, AMAC, filed a Counter Affidavit of 20 paragraphs. They attached a document – picture showing the Applicant standing behind the alleged sealed gate of the entrance to the plaza.

In their Written Address they raised 3 Issue for determination which are:

- (1) Whether the Applicant has cause of action against the Respondent.**
- (2) Whether the Applicant has sufficiently proved the claim to be entitled to the grant of same.**

**(3) Whether the present Suit as constituted should not be dismissed.**

They submitted that in the Affidavit in support the Applicant did not disclose any cause of action against the Respondent. That the Respondent never came to seal the Applicant's office but Park "n" Eat Amala Restaurant. They urged Court to look at the content of **Para 5 & 23** as well as **EXH 2A** – the picture of the Applicant standing behind the sealed entrance gate. That there is no sign of confinement on the front door to show that the Applicant has been constrained from going out of the building. They urged the Court to dismiss the Suit. They referred to the case of:

**Tsokwaa Motors Nig. Ltd V. UBA PLC  
(2008) 2 NWLR (Pt. 1071) 347 SC**

That there were other entrances in the plaza which were not locked. That the Applicant's Right of movement was not infringed at any time of the enforcement. That he did not show that he was constrained.

That the Applicant alleged that there were other tenants who were constrained but he is the only person who took this action against the Respondent and he did not join any of them as parties to the Suit – Co-Applicants.

That the Applicant is only acting as a professional litigant and meddlesome interloper and a gold-digger. They urged the Court to so hold and dismiss the Suit.

On Issue No. 2, the Respondent submitted that the Applicant has not sufficiently proved its monetary Relief against the Respondent. That the claim of **₦50, 000,000 (Fifty Million**

**Naira)** as general damages is a claim for special damages. That the Applicant did not specifically prove same. They referred to the cases of:

**SevenUp Bottling Company V. Augustus  
(2012) LPELR – 20873 (CA) 35**

**AG Lenontis V. Akpu  
(2002) 1 NWLR (Pt. 747) 182**

They urged the Court to so hold and dismiss the Suit.

On Issue No. 3, they submitted that the Affidavit of the Applicant did not disclose any cause of action against the Respondent. That the Court should dismiss the Suit. They referred to the case of:

**Nworika V. Ononeze-Madu & Ors  
(2019) LPELR – 46521 (SC)**

That there is no reasonable cause of action against the Respondent. They urged Court to discountenance the Affidavit of the Applicant and dismiss the Suit. They urged Court to award the cost of **N500, 000.00 (Five Hundred Thousand Naira)** only against the Applicant as cost of defending the Suit.

The Applicant filed Further Affidavit of 11 paragraphs in which he gave a vivid picture narrative of the nature of the plaza, stating that it has only one main gate which is in use as the other 2 gates were constantly locked and were never in use because of security reasons. The Court deems as if set hereunder seriatim the said Further Affidavit.

On Points of Law, the Applicant submitted that he placed enough facts showing that he has locus and a cause of action against the Respondent.

That the Respondent has not put up any evidence to contradict the case of the Applicant but has cast aspersion on the Applicant. That the denial by the Respondent on that can be verified especially as to the nature of the premises in issue.

That his case is not in doubt as he has sufficiently proved same. He urged the Court to judicially and judiciously enter Judgment in his favour.

## **COURT**

In every matter premised on FREP, it is incumbent on the Applicant to state facts to support and establish that his Right has been, is being or is threatened to be infringed. That onus must be discharged before the Applicant can win the day. Once the onus is discharged, it shifts to the Respondent who must give its own side to show that its alleged action did not infringe the Right of the Applicant. It continues shifting until it is stacked with one of the parties.

Once an Applicant has established such the Court will not hesitate to hold that such alleged Rights of the Applicant has been infringed or that the action of the Respondent has infringed the Right of the Applicant.

In this case, this Court had earlier dismissed the Preliminary Objection filed by the Respondent challenging

the Suit of the Applicant. The Court had gone through the submission of the parties for and against the Suit.

It is the humble view of this Court that there is merit in this application. That means that the action of the Respondent infringed the Right of the Applicant to freedom of movement and personal liberty both of which are constitutional guaranteed Rights. See **CAP 4 of the 1999 Constitution of the Federal Republic of Nigeria** (as amended).

Again, it is the humble view of this Court that there is a cause of action against the Respondent in this case. The Court relies and refers to all its consideration, determination and decision on the cause of action in the Ruling in which the Preliminary Objection was dismissed. That portion of the Ruling on cause of action is deemed as if set hereunder seriatim.

It is the humble view of this Court that the Applicant has sufficiently proved its case and the Reliefs sought. Again, it is also the humble view of this Court that Suit has merit and should **not** be dismissed as sought by the Respondent.

Most importantly, it is the humble view of this Court that the confinement of the Applicant and the restriction of his movement to his office premises against his wish for the period as stated in the application by the Respondent's Agents, infringed on his Right to freedom of movement and personal liberty.

The sealing of the main entrance gate to the premises is wrong, illegal and unlawful. The Respondent who claimed they have an Order of Court could have sealed/locked the entrance door to the Restaurant, and not the entrance gate of the premises which the Applicant and other Occupants of the premises use.

Again, the picture tendered by the applicant shows that there was a seal by the Respondent or seal bearing the name of the Respondent which is attached to **EXH 2B**. Again the said **EXH 2B** shows that there is a chain and padlock by the right hand of the gate, and that the Applicant was standing behind the gate. It shows that the Park “n” Eat Amala Restaurant entrance door was behind the point where the Applicant was standing. There was no seal on it and no Order of Court pasted in the said entrance door to the Restaurant. The same chain-locked padlock is equally visible in the picture exhibited by the Respondent. Most importantly, the Respondent did not deny sealing the gate entrance. Facts admitted need no further proof.

The Applicant also standing behind the said chain-locked gate shows that actually his movement was restrained and restricted during that period as alleged. It is obvious that he could not leave that premises same having been sealed and chain-locked.

Also the **EXH 2B** further showed that there were other persons affected by the action of the Respondent who could not also leave the premises. The said **EXH 2B** showed the

seal of the Respondent with the telephone number and name of the Respondent. It shows and has inscription of **“Sealed by Order of Court, Abuja Municipal Area Council.”** That puts no one in doubt that the sealing was done by the Respondent and its staff/agents. That alone makes the Suit of the Applicant competent against the Respondent and shows that the Applicant has a good cause of action against the Respondent who undeniably sealed the premises.

Also the action of the Respondent is unlawful as the Applicant has submitted and this Court concurs. This is because there is no visible Order of Court to show legitimacy of the action of the Respondent. Again, the Respondent never stated or exhibited the Order of the Court or even the name of the Court. But that is not what the application is all about.

The Applicant has proved his case in regard of freedom of movement. There is no doubt that for the short period when the constraint lasted that the movement of the Applicant was restrained as he could not have driven out or even moved out of the premises.

The Applicant had equally shown in his Affidavit that there was no other accessible way in and out of the premises other than the entrance gate so sealed.

Also the Applicant proved that he has his office – chambers in that premises by display of his Tenancy Agreement – **EXH 1** and the letter from ICPC – Externship dated 22<sup>nd</sup> November, 2023. All those documents confirmed that the

Applicant's claim that he has his law firm in that premises is true and nothing but the truth.

Again, the position of the seal as displayed in **EXH 2B** shows that it was placed at the main gate – entrance to the premises and no one actually leave the premises without breaking same. The pictures confirmed the allegation of confinement.

There is no doubt that the Applicant lost some business for the period in issue, untold hardship, embarrassment and trauma especially in the eyes of his clients. It is not legitimate to make someone suffer for someone else's crime.

The action of the Respondent in sealing the said main entrance to the premises makes the Applicant to suffer for the error of another. It is a known fact that it is not allowed to enforce a Court Order against a person that is not named in the said Order. In this case, the sealing of the main entrance gate made the Respondent to enforce the said Court Order against the Applicant.

The fact that the premises was seal by AMAC – the Respondent makes the Applicant's action lawful and to have a cause of action against the Respondent who had clearly breached and infringed on his Right to personal liberty and freedom of movement.

It is imperative to state that to prove an allegation of infringement of freedom of movement, the Applicant must show that he was under chain and shackled for days or years. He need not show that such restraint was for days.

Once he can show and establish that his movement was restricted as in this case for a few hours that it was obvious that within that period he could not access, enter or exist a place because of the restriction and that the restriction lasted until certain action was taken to relieve or lift the restriction. Once the Applicant is able to establish that fact the Court will not hesitate to hold that there was infringement of freedom of movement. Moreso, where there is clear evidence that there was no access in and out of premises like in this case. It need not be a question of being locked up inside a room. Locking up an entrance gate to a place with no other way to move in or out of the premises is an infringement on person's Right of freedom of movement and personal liberty which is the younger brother of the freedom of movement as most allegation of infringement of freedom of movement is followed by allegation of infringement of personal liberty.

In the final analysis, the Applicant has established that his extant Rights were infringed by the action of the Respondent.

By **S. 46 of the 1999 Constitution of the Federal Republic of Nigeria** (as amended), it provides that anyone who has proved that any of his Rights under **CAP 4 of the 1999 Constitution of the Federal Republic of Nigeria** (as amended) has been, is being or threatened to be infringed, that such person is entitled to monetary compensation to be quantified by the Court.

In this case, the Applicant, having established his case in that regard, is therefore entitled to compensation in form of damages. See the cases of:

**Lady Care Hair Product Co. Ltd V. Nwakuwelu & Anor  
(2021) LPELR – 56043 Pg. 25 Para B**

**Lagos State University (LASU) V. Ganiyu & Anor  
(2022) LPELR – 56873**

From all indication the Suit of the Applicant is meritorious as he has established that the Respondent infringed those Rights as alleged. This Court therefore enters Judgment in his favour and grants the Reliefs to wit:

**Reliefs a – d granted as prayed.**

**₦1, 000,000.00 (One Million Naira) Damages awarded against the Respondent for violating the Applicant's Rights.**

**This is the Judgment of this Court.**

**Delivered today the \_\_\_\_\_ day of \_\_\_\_\_ 2025 by me.**

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**K.N. OGBONNAYA**  
HON. JUDGE

**APPEARANCE:**

**APPLICANT'S COUNSEL:**

**C.H. MACKAY ESQ.**

**RESPONDENT'S COUNSEL:**