

IN THE HIGH COURT OF THE FEDERAL CAPITAL TERRITORY

IN THE GWAGWALADA JUDICIAL DIVISION

HOLDEN AT COURT 12, JABI

BEFORE HIS LORDSHIP: HON. JUSTICE A. S. ADEPOJU

DATED THE 27th DAY OF FEBRUARY, 2025

SUIT NO: FCT/HC/CV/137/24

BETWEEN:

C & L PROCUREMENT SERVICES COMPANY LIMITED APPLICANT

AND

THERESA EGO NSIOBODORESPONDENT

RULING

The Claimant in an Unfiled List filed pursuant to Order 35 Rule 1 of the Rules of this Court 2018 seeks for the following reliefs:

1. The sum of **N30,000,000:00 (Thirty Million, Nine Hundred Thousand Naira only)** made up as follows;
 - a. The sum of **N5, 000,000:00 (Five Million Naira only)** being the sum of money withdrawn in cash by the defendant at the Wuse 2 Abuja bank branch of First City Monument Bank (FCMB) on 28/09/2023 from the Claimant's corporate bank account number **3611856016** domiciled at Gudu Abuja bank branch of the same FCMB without the knowledge, instruction, direction, authority or consent of the Claimant.
 - b. The sum of **N5, 000,000:00 (Five Million Naira only)** being the sum of money withdrawn in cash by the defendant at the Wuse 2 Abuja bank branch of FCMB on 09/11/2023 from the Claimant's corporate bank account number **3611856016** domiciled at Gudu Abuja bank

branch of the same FCMB without the knowledge, instruction, direction, authority or consent of the Claimant.

- c. The sum of **N20, 000,000:00 (Twenty Million Naira only)** being the sum of money which the defendant, without the knowledge, instruction, direction, authority or consent of the Claimant, transferred on 09/11/2023 from the Claimant's corporate bank account number **3611856016** domiciled at Gudu Abuja bank branch of the FCMB into the account of **Estate Account of Fabian Nsiobodo** with account number **2885700012**, which is a third party account which the defendant privately maintains at the same FCMB bank.
 - d. The sum of **N900,000:00 (Nine Hundred Thousand Naira only)** being the sum of money which the defendant, without the knowledge, instruction, direction, authority or consent of the Claimant, transferred on 09/11/2023 from the Claimant's corporate bank account number **3611856016** domiciled at Gudu Abuja bank branch of the FCMB into the account of **Estate Account of Fabian Nsiobodo** with account number **2885700012** which is a third party account which the defendant privately maintains at the same FCMB bank.
2. The sum of **N2,000,000:00 (Two Million Naira, only)** as cost of this suit (inclusive of four days of costs); provided that if paid together with claims 1 (a), (b), (c) and (d) above to the claimant's Legal Practitioner within the time herein allowed for appearance the whole proceedings in this suit shall terminate.

In support of the Writ is a 30 paragraphed affidavit deposed to by one **Sylvester Okafor** who is the General Manager of Claimant. He averred that one **Ms Ikpeama Cynthia Kossy** and **Ms Okafor Ogechukwu Maryann** are members of the Claimant's Board of Directors, and shareholders of the company. While the Defendant is an erstwhile secretary of the Claimant and a co-signatory to the Claimant's corporative bank account **No. 3611856016** FCMB. That the defendant also privately maintains a third party account in the name of **Estate Account of Fabian Nsiobodo** also with FCMB. That while exercising the powers conferred on them by Section 333(1) of the Companies and Allied Matters Act (CAMA) 2020, the directors of the Claimant on 29/07/2020 duly removed the defendant as the company Secretary and instead appointed **Ms. Okafor Ogechukwu Maryann**. That the defendant did not challenge her removal.

He further averred that the Claimant was awarded contract by Niger Delta Power Holding Company in 2016, an engineering procurement and construction contract for the construction of 1 X 7.5 MVa 33/11/KV injection substation and associated line works (The Project) at Talata Mafara in Zamfara State. The project was completed sometimes in May, 2022, and submitted to the NDPHC for payment, its invoice worth **N66,504,890.52 (Sixty Six Million Five Hundred and Four Thousand Eight Hundred and Ninety Naira, Fifty Two Kobo)**. Upon refusal of NDPHC to pay the Claimant, the Claimant instituted an action at the Federal Capital Territory High Court, and judgement was delivered in favour of the Claimant. In compliance with the Order of the Court the sum of **N57,298,962.96 (Fifty Seven Million Two Hundred and Ninety Eight**

Thousand Nine Hundred and Sixty Two Naira, Ninety Six Kobo) was paid into the Claimant's account **No. 3611856016** at Gudu , Abuja branch of the FCMB on 28th September 2023. And in that day the defendant withdrew the sum of **N5,000,000 (Five Million Naira)** from the Judgement sum. On 9/11/2023 he also withdrew another **N5,000,000 (Five Million Naira)** and **N20,000,000 (Twenty Million Naira)** into a third party account of **Estate Account of Fabian Nsiobodo** and another **N900,000 (Nine Hundred Thousand Naira)** form the judgement sum also paid into **Estate Account of Fabian Nsiobodo**. He averred that the Claimant had no knowledge of the financial transaction made by the defendant on the account, that no member of the Claimant's Board of Directors instructs or authorize the defendant to carry out financial transaction. That the Claimant believes that the defendant does not have any defence to the suit.

In defence of the Plaintiff's Claim the Defendant filed a Counter-affidavit of 71 paragraphs in addition to the notice of intention to defend dated 27th day of June 2024. The deponent averred that the Claimant was acquired in 2016 from the original owners to wit: Charles Umeh and Ekaleh Umeh through a legal acquisition and the new Director to wit: Musa Haruna and Ikpeama Pius Ikenga who were registered by the Corporate Affairs Commission. He denied that the deponent to the affidavit is not a General Manager of the Claimant and therefore does not have the consent of the Claimant to depose to the affidavit. That she became the Company Secretary and still hold the position till now, as the sole signatory to the Claimant's bank account. The Defendant also alleged

that sometimes in 2020, the deponent and his children connived with other accomplices and forged company resolution and affidavit alleging that the Claimant's Directors **Mrs. Ikpeama Pius Ikenga** and **Mr. Musa Haruna** allegedly handed over their shares in the Claimant to Cynthia Okafor parading herself as **Ms Ikpeama Cynthia Kossy** and **Ogechukwu Maryann** when other claiming allegation of forging were also leveled against the claimant and some other persons named in the Counter-affidavit. The defendant also claimed that the Claimant was her lover, they both lived together and that she in fact acquired the Claimant from the original owners.

It is my observation upon a calm reading of the entire 70 paragraphed Counter-affidavit of the defendant that her stories are diametrically oppose to that of the deponent to the affidavit in support of her undefended writ and as such requires that the entire suit be transferred to the general cause list for determination. Parties are to file and exchange pleadings according to the Rules of the Court.

SIGN

HON JUDGE
27/2/2025