

**IN THE HIGH COURT OF THE FEDERAL CAPITAL TERRITORY  
IN THE ABUJA JUDICIAL DIVISION  
HOLDEN AT MAITAMA – ABUJA**

**BEFORE HIS LORDSHIP: HON. JUSTICE. H. MU’AZU  
SUIT NO: FCT/HC/ CV/6864/2023  
MOTION NO. FCT/HC/M/11935/2023  
DELIVERED ON THE 10/02/2025**

**BETWEEN:**

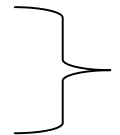
- 1. HARUNA CHIDAWA
- 2. DIKO HARUNA CHIDAWA  
*(Suing for Themselves and on Behalf of  
Other Members of Akoshi Family)*



.....CLAIMANTS/APPLICANTS

**AND**

- 1. CANBIS INVESTMENT LIMITED
- 2. THE UNKONOWN PERSONS



....DEFENDANTS/RESPONDENTS

**RULING**

This suit was commenced by the Plaintiffs against the Defendants jointly and severally by way of writ of summons and statement of claim praying for the following reliefs, namely:

- 1. *A Declaration that the Plaintiffs and several individual members of their family respectively have exclusive possessory right in an undisturbed long possession of devolving through their predecessors such as Umaru, the founder who deforested the disputed land to Muhammadu Akoshi Umaru, Haruna Umaru Chidawa and all other members of the family howsoever High and howsoever low*

*from time immemorial over the land known and called Akoshi farmland situate in Tasha II farm Area within Idu Industrial Area of Federal Capital Territory measuring about 13 hectares within the jurisdiction of the Honourable Court.*

**ALTERNATIVELY:**

2. *A **Declaration** that the Plaintiffs have an equitable and customary interest as customary title holders, and occupiers of the land known and called Akoshi land situate at Tasha II farm Area within Idu Industrial Area in Abuja Municipal Area Council of the Federal Capital Territory within the jurisdiction of the Hon. Court and are deemed to be granted customary right of Occupancy.*

**IN THE FURTHER ALTERNATIVE:**

3. *A **Declaration** that the Plaintiffs hold collectively in the style and name of HARUNA CHIDAWA a customary certificate of Occupancy granted by the Abuja Municipal Area Council with No. **AMAC/FCT/LA/CUS/1595** dated the 27<sup>th</sup> day of December, 2022 registered as No. **1112** at page 1112 in volume 5 in the land Administration Land Registry office at Abuja Municipal Area Council, Garki.*
4. *A **Declaration** that the Defendants are not entitled to enter or use the said farmland.*
5. *A **Declaration** that the Plaintiffs are entitled to the protection of their fundamental rights to own property anywhere in the country in particular, the land, the subject matter of this suit and same cannot be taken away except under due process of law as guaranteed under sections 36,*

*43 and 44 of the 1999 constitution of Federal Republic of Nigeria (as amended).*

- 6. A **Declaration** that due process of law was not followed in compulsory acquisition of the plaintiff's land as there was neither any notice of intention to acquire by the government given or served on the Plaintiffs and members of their family, nor was there any revocation of their existing possessory or customary right title coupled with payment of compensation.*
- 7. A **Declaration** that any purported grant of statutory right or Certificate of Occupancy to the Defendants in so far as it covers the area in the possession of the Plaintiffs is unlawful, illegal and unconstitutional and breach of the fundamental rights of the Plaintiffs entrenched in the constitution of the Federal Republic of Nigeria, 1999 (as amended) and the Land Use Act.*
- 8. A **Declaration** that any purported subsequent issuance or grant of a statutory right to the Defendants cannot defeat the equitable interest, customary law title and possession of the Plaintiffs over the land.*
- 9. A **Declaration** that by the acts of the defendant's encroachment upon the Plaintiffs said farm and the Defendants committed trespass and violated the fundamental rights of the Plaintiffs.*
- 10. A **Declaration** that upon a valid and lawful acquisition of the land of the Plaintiffs and members of their family they are entitled to the provisions of alternative farmland for the*

*purpose of carrying on their farming activities which is their only means and source of livelihood.*

11. **A Declaration** that the presence and engagement of some men of the Nigerian Military at the instigation of the Defendants to carryout the clearance of the plaintiff's farmland amounts to threats, intimidation, harassment and psychological trauma on the Plaintiffs as such is unlawful and unconstitutional.
12. **AN ORDER OF PERPETUAL** injunction restraining all the Defendants, their agents, servants, employees, representatives or privies or any other person acting for them or on their behalf or deriving authority from them from further trespassing, encroaching or taking over the Plaintiffs farmland or doing anything that would affect the Plaintiffs interest in the land and fundamental rights on their farmland known as Akoshi farmland situate at Tasha II Farm Area, Abuja Municipal Area Council, Abuja measuring about 12 hectares.
13. **AN ORDER** compelling the Defendants to pay to the Plaintiffs and members of their family adequate compensation in form of general damages for their economic trees comprising matured cashew trees, malina trees, guava trees, palm trees among others in their number unspecified having been destroyed without allowing assessment to be conducted to ascertain the number and value of the economic trees.
14. **AN ORDER** of the Honourable Court directing the immediate cancellation of the purported grant of the

statutory right to the Defendants and to restore to the Plaintiffs their land.

15. The sum of **₦10,000,000** (Ten Million Naira) only being general damages to the Plaintiffs and members of their family for that act of trespass, destruction of their economic trees and violation of their fundamental rights to fair hearing, property as guaranteed under sections **36, 43** and **44** of the 1999 Constitution of the Federal Republic of Nigeria (as amended).
16. The sum of **₦5,000,000.00** (Five million Naira) only being cost of this suit.

The Defendants were duly served with the processes filed by the Plaintiffs. In response, a Memorandum of conditional appearance dated the 21<sup>st</sup> August, 2023 was filed on behalf of the 1st defendant on the same date.

Meanwhile, the Plaintiffs/Applicants filed a motion on notice dated the 18<sup>th</sup> July, 2023 on the same date.

The motion on notice seeks for the following reliefs, namely:

1. ***AN ORDER OF INTERLOCUTORY injunction restraining the Respondents, particularly, the 1st Respondents, their agents, servants, employees, representatives or privies or any other person acting for them or on their behalf or deriving authority from them from further encroachment, trespassing, destruction of their economic trees/crops and/or taking over the Plaintiffs/applicant's interest and rights on their land known as AKOSHI FARMLAND situate at Tasha II,***

*Gwagwa Community measuring about 13 hectares, within Abuja Municipal Area Council of the Federal Capital Territory, Abuja pending the determination of the motion on notice.*

2. ***AN ORDER OF INTERLOCUTORY*** *injunction restraining the Respondents either by themselves, or by their servants, agents, privies, functionaries or otherwise however so called from further harassment, threats, intimidation, by use of security agents, particularly the armed soldiers for purposes of compulsorily taking over the applicant's said land in dispute on a purported claim for statutory right over the land which matter is purely in the realms of Civil cause therefore Ultra vires of the soldiers and/or in any other manner intriguing on the fundamental Rights of the Applicants to life, dignity of their persons personal liberty, the right to property, as guaranteed under the constitution of the Federal Republic of Nigeria 1999 (as amended).*
3. ***AND FOR FURTHER ORDER*** *or such other orders as the Honourable Court may deem fit to make in the circumstances of the case.*

The Applicants filed a 49 paragraph affidavit in support of their motion on notice. The affidavit is deposed to by one Diko Haruna Chidawa, the 2<sup>nd</sup> plaintiff in this suit and accompanied with Exhibits A - D respectively. The motion on notice is also supported by a written address sought to be adopted by the learned counsel to the Applicants as his oral arguments in support of this application.

The Respondents on the other hand filed a three-paragraph counter affidavit deposed to by one Damilare Solomon, a litigation Secretary in the law office engaged by the 1<sup>st</sup> Defendant/Respondent in this suit with Exhibit A1 attached thereto. It is also accompanied with a written address sought to be adopted as the oral arguments of the learned counsel to the Respondents.

The Applicants further responded to the counter affidavit filed by the Respondents and filed a further and better affidavit dated the 30<sup>th</sup> day of August 2023 and filed on the same date. It is also supported with a written address as the oral argument of the learned counsel to the Applicants.

It will be in the interest of justice to refer to some salient paragraphs of the affidavit of the applicant particularly paragraphs 15, 31, 33, 41, 43, 46 and 47 respectively. For emphasis sake let me reproduce some of the aforementioned paragraphs, namely:

Para 15

**"That we complained to the representatives of the defendants/respondents that we have not been given any notice of intention to acquire our land by the FCDA who the Defendants claimed allocated the said land to them neither have we been compensated for the land by the government."**

Para 9

**"That in order to obtain and have a legal instrument of customary right over the entire land in our exclusive possession applied for an actual grant of a certificate of Occupancy for the entire land measuring about 18 hectares and were granted the Certificate of Occupancy by the Abuja Municipal Area Council which we now hold in the style and name of HARUNA CHIDAWA being one of the Plaintiffs who is the father of other members. The said certificate with No. AMAC/FCT/LA/CUS/1595 dated the 27<sup>th</sup> day of December, 2002 registered as No. 1112 at page 1112 in volume 5 in the Land Administration Land Registry office Abuja Municipal Area Council, Garki is hereby attached and marked as exhibit A.**

Para 41

**"That there is a real situation of urgency as the Defendants/Respondents have shown their good intention purportedly claiming authority from government to take over our farmland when they encroached upon our land by virtue of the purported statutory allocation, clearance of the land on the 2<sup>nd</sup>, 3<sup>rd</sup> and 4<sup>th</sup> July, 2023 thereby destroying our economic trees and crops with the intention of commencing development on the said land any moment from now".**

Para 43

**"That unless this court intervenes urgently by way of an order restraining the Defendants/respondents from**

**further encroachment and taking over our farm lands we may likely suffer by way of destruction of our economic trees, crops on the remaining parts of the land and loss of use of our farmlands for the purposes of Agriculture or farming which is our only means and source of livelihood and that the entire members of our respective families and most importantly our future generational means of livelihood and well being as families of a community without any cause or justification whatsoever."**

Para 46

**"That the balance of convenience is on our side as the Defendants/Respondents have nothing to lose.**

Para 47

**"That the Applicants undertake to pay cost should this case turnout to be frivolous and vexatious.**

The further and better affidavit in support of the motion on notice is simply a re-echoing of the affidavit in support of the motion on notice.

In his submission in support of the motion on notice the learned counsel to the Applicants, J. E. Ndeye Esq, submitted that his application is brought pursuant to ORDER 43 Rules 1, of the High Court of the FCT (Civil Procedure Rules) 2018 and under the inherent powers of this Honourable Court. He submitted that for this type of application to succeed, the Plaintiffs/Applicants must establish that he has a legal right that there are serious

issues to be tried by the court, if the balance of convenience is on the part of the plaintiff/applicant and that irreparable damage has been caused to the plaintiff/applicant. He therefore refer to the case of **LAFERRI NIG. LTD & ANOR V. NAL MERCHANT BANK PLC & ORS (2001) 35 WRN at pg. 18** where it was held that:

**"The essence of the grant of injunction is to protect the existing right or of recognizable right of a person from unlawful invasion by another ".**

The learned counsel also refers to the cases of **OYESOH V. NZE CHRISTOPHER NNEBEDUN & ORS (1992) 3 NWLR (PT. 229) PG 315 AT PG 318** and **OGUNSOLA V. USMAN (2003) 6 WRN PG 54 AT PG 74 LINES 5 – 20** where it was held to the effect that there are substantial triable issues in this suit and that the balance of convenience lies in the granting of the interlocutory injunction to maintain status quo ante bellum. He equally submitted that it is the duty of this Honourable Court to maintain the status quo and prevent the "res" from total destruction. The learned counsel to the Applicants finally submitted that if the prayers in this application are not granted it is the plaintiff/applicant in this suit, that would suffer irreparable damage. He therefore urged this Honourable Court to grant this application in the interest of Justice.

On the other hand, the learned counsel to the Defendants/respondents Olugbami Victor Esq formulated a sole issue for the determination by this Hon. Court to wit:

**"Whether the Applicants have made out a case for the grant of the reliefs sought in their application".**

The learned counsel to the Defendants/Respondents referred to a number of judicial authorities which include the cases of **R. BENKAY NIG. LTD V. CADBURY NIG. PLC LPELR-SC/29/2006, ODENEYE V. EFUNUGA (1990) 7 NWLR Pt. 164 at pg 618 and OGUNSOLA V. USMAN (2002) 14 NWLR Pt. 788 pg 636 at pages 655 – 656** where it was held that:

**"An applicant for an order of interlocutory injunction must first establish that there is serious question to be tried at the hearing of the substantive suit where the Applicants fail to satisfy this basic requirement, his application must fail ".**

He further submitted that the claimants having failed to show any serious question to be tried even at the hearing of the substantive suit as the 1st defendant is the lawful owner and have been in possession even before this suit was instituted. The learned counsel to the Respondents finally referred to the case of **ADIGIDE V. FRN (2005) LPELR (SC)** where it was thus:

**".....court of law do not embark on conjecture or guesswork as same can hardly produce a just and equitable decision. Where an applicant prays the court to exercise its discretion in his favour judicially and judiciously, it is his duty to place before the court sufficient materials upon which the court will rely in granting his application ".**

He therefore urged this Honourable Court to resolve the sole issue for determination against the claimant and dismiss this application.

Having thus, paraphrased the relevant content of the various processes before this Honourable Court and the submissions of the learned counsel to the parties it will be in the interest of Justice to restate the position of the law on the principles guiding this application. Thus, in the case of **AHMED V. DASUKI (1997) LPELR - 6268 (CA)** it was observed as follows:

**"In an application of this nature the applicant must establish that the balance of convenience is on his side, that there is a serious issue to be tried at the hearing, to enable him to be entitled to an order of this nature "**

Furthermore, it was held in the above cited case that in an application for an injunction the status quo to be maintained is the position that existed before the acts complained of in the substantive action. For example, where the Res is a land in dispute all activities affecting the Res are automatically terminated pending the hearing and determination of the substantive suit such as the defendant continuing to build on the land.

Furthermore, in the case of **UDO V. INCORPORATED TRUSTEES CHRISTIAN METHODIST EPISCOPAL CHURCH (2010) (PT. 507) pg 88 at pg 103 paragraph C - A** Per Orji - Abadua JCA it was held that:-

**"In an application of this nature the applicant must establish the following factors namely:**

- 1. There must be a subsisting action. The subsisting action must clearly donate a legal right which the applicant must protect.**
- 2. The applicant must show that there is a serious question to be tried, that is, that the applicant has a real possibility not probability of success at the trial.**
- 3. The applicant must show that the balance of convenience is on his side, that is, that more justice will result in granting the application than in refusing it.**
- 4. The applicant must show that damages cannot be adequately compensated for the injury he wants the court to protect if he succeeds.**
- 5. The applicant must show that there was no delay on his part in bringing the application.**
- 6. The applicant must make an undertaking to pay damages in the event of wrongful exercise of the Court's discretion in granting the injunction".**

I should equally refer to the case of **ADELEKE V. LAWAL (2014) 3 NWLR (Pt. 1393) 1 at pg 17 paragraphs** on the same factors referred to above. Similarly, in the case of **AJEWOLE V. ADETIMO (1996) 2 NWLR (Pt. 431) pg 391 at pg 405** the Supreme Court held that:

**"An interim injection will be granted where there is urgency. Where there is no urgency disclosed on the**

**facts the application will fail. Also where irreparable loss is not disclosed, the grant would be refused".**

It is the humble opinion of this Hon. Court that the combined effect of the content of paragraphs **9, 15, 21, 31, 41, 43, 46** and **47** of the supporting affidavit of the applicant has clearly disclosed all the factors required from the applicant to warrant the grant of this application. In fact, by the content of paragraph 41, a real situation of urgency has been disclosed. In the same vein, paragraph 42 shows that the cause of action of this suit arose on the 2nd, 3rd and 4<sup>th</sup> July, 2023 when the Defendants destroyed the economic trees and crops with the intention of commencing development on the said land any moment from now. The Plaintiffs did not waste time but approached their counsel who filed this suit on the 18<sup>th</sup> July, 2023. The Applicants have shown in the 46<sup>th</sup> and 47<sup>th</sup> paragraph of his affidavit that the balance of convenience is on their side as the Defendants have nothing to lose. The Applicants also undertook to pay cost should this case turnout to be frivolous and vexatious.

Furthermore, the content of Exhibit **A** referred to in paragraph 9 of the supporting affidavit of the applicant and the content of Exhibit **A1** contained in paragraph 3(ix) of the Respondents counter affidavit clearly shows that there is a real situation of urgency disclosed in the suit to be tried by this Hon. Court.

There is therefore the need to give this application a favourable consideration which it deserves. This is more so that there are plethora of judicial authorities to show that once the above listed factors have been established a court of law is enjoined to grant

such an application. Thus, in the case of **ADEWALE V. EXECUTIVE GOVERNOR OF EKITI STATE & ANOTHER (2006) LPELR - 5991 (CA)** the justices of the court of Appeal while referring to the case of **OJUKU V. GOVERNOR OF LAGOS STATE (1986) 3 NWLR (Pt. 26) pg 39** held that:-

**"The learned trial judge, having found that the applicant/appellant had a legal right which was being threatened which ought to be protected and there were serious issues to be tried should have properly acted to grant the application restraining the Respondents from entering onto the land in order to preserve the 'res' and to maintain the status quo pending the determination of the substantive suit. It was out of place and in appropriate for him to have gone on to pronounce on the issue of revocation and conclude that it had been completed. This was clearly an issue that was being hotly contested by the parties as can be seen from both the applicant/appellant's statement of claim before the court as well as from the affidavit and counter affidavit of the parties".**

Similarly, in the case of **QUEEN & ANOR V. ADAROH & ANOR (1998) LPELR - 6917(CA)** the conditions which an applicant for an interlocutory injunction must fulfill before he can succeed were re-echoed therein and once these conditions are satisfied, it is incumbent upon the court to grant such an application.

This being the case this Hon. Court is of the humble view that the applicant has met all the laid down factors to earn the favour of this Hon. Court to grant the application. It is clear from the content of the writ of summons, the statement of claim, affidavit in support of the motion on notice and the further and better affidavit in support of this application that this application ought to be granted. It will therefore amount to a wrongful exercise of the discretion of this Hon. Court to refuse this application. It is accordingly granted as prayed. i.e.

*1. AN ORDER OF INTERLOCUTORY injunction restraining the Respondents, particularly, the 1st Respondents, their agents, servants, employees, representatives or privies or any other person acting for them or on their behalf or deriving authority from them from further encroachment, trespassing, destruction of their economic trees/crops and/or taking over the Plaintiffs/applicant's interest and rights on their land known as AKOSHI FARMLAND situate at Tasha II, Gwagwa Community measuring about 13 hectares, within Abuja Municipal Area Council of the Federal Capital Territory, Abuja pending the determination of the motion on notice is hereby granted.*

*2. AN ORDER OF INTERLOCUTORY injunction restraining the Respondents either by themselves, or by their servants, agents, privies, functionaries or otherwise however so called from further harassment, threats, intimidation, by use of security agents, particularly the armed soldiers for purposes of compulsorily taking over the*

*applicant's said land in dispute on a purported claim for statutory right over the land which matter is purely in the realms of Civil cause therefore Ultra vires of the soldiers and/or in any other manner intruding on the fundamental Rights of the Applicants to life, dignity of their persons personal liberty, the right to property, as guaranteed under the constitution of the Federal Republic of Nigeria 1999 (as amended) is hereby granted.*

**SIGNED:  
HON.JUDGE  
10/02/2025**

**APPEARANCE:**

*C. E. Manah, Esq, for the Claimants/Applicants*

*The Defendants/Respondents are absent and not Represented*