

**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/2270/2017**

**MOTION NO: FCT/HC/M/12212/2023**

**MOTION NO: FCT/HC/M/12422/2023**

**DELIVERED: ON THE 04/04/2025**

**BETWEEN:**

**THE REGISTERED TRUSTEES OF WEST AFRICA } ....CLAIMANT/RESPONDENT  
YOUTH PEACE MISSION (WAYPEM) }**

**AND**

- 1. L. M. ERICSSON NIGERIA LIMITED**
  - 2. ENGINEER FUNSHON**
  - 3. THE HON. MINISTER, FEDERAL CAPITAL TERRITORY  
ADMINISTRATION (FCTA)**
  - 4. FEDERAL CAPITAL TERRITORY ADMINISTRATION**
  - 5. DIRECTOR, ABUJA GEOMETRIC INFORMATION  
SYSTEM (AGIS)**
- DEFENDANTS/RESPONDENTS**
- 6. MENDS INTERNATIONAL LIMITED**
  - 7. KARRIES CONSTRUCTION LIMITED**
- .....DEFENDANTS/APPLICANTS**

**CONSOLIDATED RULING**

This is a consolidated Ruling pursuant to Motion No. **M/12212/2023** filed by the Claimant applicant and the Notice of Preliminary Objection filed by 7<sup>th</sup> Defendant/Applicant vide motion No. **M/12422/2023**. The 7<sup>th</sup> Defendant/Applicant Notice of Preliminary Objection is jurisdictional in nature, I shall therefore, address same before delving into the motion filed by

Claimant/Applicant for interlocutory injunction to avoid embarking on fruitless exercise.

By a Notice of Preliminary objection dated the 09/08/2023 the 7<sup>th</sup> Defendant objector is praying this Honourable Court for the following:

- 1. That this Honourable Court has no jurisdiction to entertain this Motion on Notice dated 30<sup>th</sup> July, 2023 and filed by the Claimant/Respondent.*
- 2. That the Motion on Notice filed by the Claimant/Respondent is incompetent and abuse of Court process.*

This preliminary objection is predicated upon 2 grounds to wit:

**(1) That there is a similar Motion on Notice with Motion No: GAR/M/853/2023 filed by the Claimant/Respondent dated 7<sup>th</sup> June, 2023 which is still pending before the High Court No: 37 Gudu, FCT Abuja where the case is legitimately assigned to and has been adjourned to 6<sup>th</sup> November, 2023 for hearing of same.**

**(2) That the subject matter, parties and reliefs sought in the same Motion on Notice, is the same subject matter, parties and reliefs sought in this motion on notice filed by the Claimant/Respondent before this Honourable Court.**

The objector in support of his objection filed an 11-paragraph affidavit and 1 exhibit deposed to by one Celine Amuzie A. (Mrs) relying on all averment in urging this Honourable Court to grant the Application. In the Affidavit it was averred that the Claimant has filed same Application before another Court which is still pending and date is given for hearing. That the Application is an abuse of Court process. That the 7<sup>th</sup> Defendant/Respondent has never encroached on the Claimant/Applicant's plot of land, as its activities were confined to its own plot of land duly allocated to him.

The objector's counsel filed a written address wherein he formulated a sole issue for the determination to wit:

**“Whether the Motion on Notice dated 30<sup>th</sup> July, 2023 filed by the Claimant/Respondent before this Honourable Court is an abuse of Court process?”**

Counsel relied on **NYESOM WIKE EZENWO VS. AWARA BIO KPOMABO FESTUS & 3 ORS (2020) 16 NWLR para 1750 page 342 at page 329 to 333.**

Where the Apex Court held thus:

**“Multiplicity of action to the same subject matter between same parties; even where there is a right to bring the action is an abuse of Court process.”**

The objector further filed a further Affidavit and reply on points of law to the Respondent’s counter affidavit wherein they emphasized on the earlier position and responded to the issue on the competence of the deponent to depose to the affidavit, the position of the Court regarding the application for extension of time to file a counter, to amend process to reflect the name of the 7<sup>th</sup> Defendant just joined, and the issue of re-assignment. He finally urged this Honourable Court to grant their objection.

The Claimants/Respondent in response filed a 16-paragraph counter affidavit with 6 exhibits, it is deposed to by one Professor Godswill Richman wherein he averred that his Affidavit of urgency and Motion on Notice are not mala-fide and do not amount to forum shopping or an abuse of Court process.

That although the subject matter and parties are the same, the parties have not joined issues in the matters in controversy, as the Claimant is yet to respond to the 7<sup>th</sup> Defendant counter affidavit dated 12/07/2023: which counter Affidavit was served on the Claimant/Applicant on the 12/07/2023 i.e. the eve of the hearing of the Application, originally fixed for the 13/07/2023.

That in order to save time Counsel urged the Court to allow him respond to fresh issues raised in the counter affidavit, which was opposed and upheld by the Court, subsequently matter was adjourned to 06/11/23 for hearing.

That despite the plea of Counsel for an earlier date, the Court did not take cognizance of its earlier ruling for accelerated hearing of substantive application and visit to ‘locus in quo’ which was granted.

That the trial judge had failed to take cognizance of his observation during the visit to ‘locus in quo’ to the effect that the 7<sup>th</sup> Defendant herein has been

violating a subsisting order of injunction made against the other Defendants at the time the 7<sup>th</sup> Defendant has not been made a party to the proceeding.

That other Defendant in the proceeding, especially the 1<sup>st</sup> Defendant from whom the 7<sup>th</sup> Defendant claimed to have derived his title to a portion of the *Res* in controversy during the pendency of the trial. A contempt proceeding has been heard but the ruling is still pending till date.

That the application of the 7<sup>th</sup> Defendant for joinder is to divert attention from the application for contempt.

Counsel filed a written address in urging this Court to refuse this objection he formulated an issue for the determination of this Court to wit;

**“Whether or not the applicant by filing an application in the circumstances disclosed herein, can be said to be acting mala fide and in abuse of Court process”**

Counsel cited **S.P.A ASSOCIATES LTD V. MARCH RICH & COMPANY AG (2003) FWLR (PT. 177) 922@936.**

I have perused through the affidavits of parties and exhibit respectively. It is instructive to state here that over the years, it has become trite in our law that the issue of abuse of Court process is a jurisdictional issue, and being a jurisdictional issue, it can be raised at any time or stage in the proceeding before the Court and notwithstanding the nature of the proceedings and because of the importance of jurisdiction, it can be raised by either of the parties or even *suomotu* by the Court and can even be raised for the very first time before the Court or even at the Apex Court. This is because, competence is the soul and or epicenter of adjudication and without it, there cannot be any valid adjudication and any resultant valid outcome in the Court. **THE VESSEL MT. SYLLA & ANOR VS. GHANA COMMERCIAL BANK LTD & ORS. (2021) LPELR 54556 (CA).**

Abuse of Court process, which has no precise definition, occurs where there is an improper use of judicial process by one of the parties to the detriment or chagrin of the other to circumvent the proper administration of justice or to irritate or annoy his opponent taking in due advantage, which otherwise he would not be entitled to. Also constituting multiplicity of action on the same

subject matter against the same opponent on the same issues constitutes an abuse of Court process. The rationale of the law is that there must be an end to litigation, and a litigant should not be made to suffer the same rigour/jeopardy for the same purpose twice. Above was laid down in the case of **N.I.C VS. F.C.I CO. LTD (2007) 2 NWLR (PT. 1019) 610 at 630-632 paragraphs F – H, B – E (CA).**

The Supreme Court of Nigeria per Ogbuagu JSC in the case of **ABUBAKAR VS. BEBEJI OIL AND ALLIED PRODUCT LTD & ORS. (2007) L.P.E.L.R SC (110/2021) page 6263 para D – E** stated as thus;

**There is abuse of process of Court where the process of the Court has not been used *bonafide* and property the circumstances in which abuse of process can arise has said to include the following:**

**(a) Instituting a Multiplicity of actions on the same subject matter against the same opponent on the same issues or multiplicity of actions on the same matter between the same parties even when there exist a right to bring that action.**

**(b) Instituting different actions between the same parties simultaneously in different Courts even though on different grounds.**

**(c) Where two similar process are used in respect of the same right, for example a cross appeal and respondent's Notice.**

**(d) Where an application for adjournment is sought by a party to an action to bring an application to Court for leave to raise issues of fact already decided by Court below**

**(e) Where there is no lots of law supporting a Court process or where it is premised on frivolity or recklessness. The abuse lies in the convenience and inequities involved in the aims and purposes of the action.**

On whether motion No. **M/12212/2023** dated 30/07/2023 filed before this Hon. Court amount to an abuse of Court process or not, it is expedient to look at the process before the Court.

By **Exhibit 'A'** annexed to Notice of Preliminary Objection, the Claimant filed a motion No. **GAR/855/2023** praying for an order of interlocutory injunction

against the Defendants. The parties in the motion No. **M/GAR/855/2023** are the same with the parties in Motion No. **M/12212/2023**.

The reliefs sought in motion No. **M/855/2023** and that of **M/12212/2023** are the same and also the subject matter is the same. i.e. Plot **9809**, Cadastral Zone **B03**, Wuye, District, Abuja.

The Claimant in countering the application stated in paragraph 4(b) of his counter affidavit that although the subject matter and the parties are the same, the parties have not joined issues in the matter in controversy as the claimant is yet to respond to the 7<sup>th</sup> Defendant's counter affidavit.

The Claimant further stated that he had submitted an application for reassignment of the substantive suit so as to preserve the Res owing to the surrounding circumstance and the application for reassignment is still pending.

From the above, it is not in dispute that the subject matter, reliefs sought and the parties are the same in both motion No. **M/12212/2023** and motion No. **M/855/2023**. An abuse of process remains an abuse no matter how well clothed and costumed. I refuse to be cajoled. Accordingly, I decline to assume jurisdiction to entertain the present motion No. **M/12212/2023** for being an abuse of Court process. Consequently, same is hereby struck out.

**SIGNED:**  
**HON. JUDGE**  
**04/04/2025.**

**APPEARANCE:**

*Parties absent and not represented.*