

**IN THE HIGH COURT OF 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/4400/2024

MOTION NO: FCT/HC/M/12233/2025

DELIVERED ON THE 05/11/2025

BETWEEN:

1. GALADIMA GIWA
2. DANLAMI MURYA
3. IRIMIYA AMOS
4. HOSEA NUHU
5. NUHU KYALE
6. DANJUMA NDAMU
7. BALA JOSEPH
8. BITRUS SAMUEL
9. HASSANA BAKNI
10. ISHAYA JOSEPH
11. ABAKU TANKO
12. SAMSON SHEK WOYA
13. NAROKA MALLE
14. TAIMAKO BABA
15. DANJUMA BITRUS
16. JAMES AMALI
17. FRANCIS KAURA
18. JEREMIAH GAMBO
19. EMMANUEL KYAZHI
20. JEZHI BOKA

....JUDGMENT CREDITORS/RESPONDENTS

AND

1. THE MINISTER, FEDERAL CAPITAL TERRITORY
2. FEDERAL CAPITAL DEVELOPMENT AUTHORITY
3. FEDERAL CAPITAL TERRITORY ADMINISTRATION
4. ABUJA METROPOLITAN MANAGEMENT COUNCIL
5. PARKS AND RECREATION DEPARTMENT AMMC
6. THE NIGERIA POLICE FORCE
7. NIGERIA SECURITY AND CIVIL DEFENCE CORPS

JUDGMENT DEBTORS/
APPLICANTS

JUDGMENT DEBTORS/
RESPONDENTS

RULING

The Applicants herein took out a motion for the enforcement of their fundamental Human Right pursuant to the fundamental Right Enforcement Rules, 2009. This Court delivered Judgment on the 16/06/2025 against the Respondents/Applicants who being dissatisfied with the said Judgment, have filed a Notice of Appeal and brought this present motion seeking the following reliefs:

- (1) *An Order staying the execution/enforcement of the Judgment of this Hon. Court Coram Hon. Justice H. Mu'azu in suit No. CV/4410/2024 between Galadima Giwa & 19 Ors. Vs. the Minister FCT & 6 Ors. Delivered on the 16/6/2025 pending the hearing and determination of the Applicant's appeal against the said Judgment of this Hon. Court at the Court of Appeal.*
- (2) *An Order of Injunction pending appeal restraining the Applicants/Respondents from commencing and/or continuing any enforcement proceedings or action (including but not limited to garnishee proceedings, attachment or contempt proceedings) in respect of, pertaining to or flowing from the Judgment of this Hon. Court delivered on the 16/06/2025 per Hon. Justice H. Mu'azu pending the hearing and determination of the Applicant's appeal against the said Judgment of this Hon. Court at the Court of Appeal.*

In support of the application are grounds upon which the application is brought and an affidavit of 13 paragraphs deposed to by Saidu

Badamasi Abdulkadir, a Litigation Assistant in the Litigation Department of Legal Services Secretariat of the Applicants.

It is the deposition of the Applicants that being dissatisfied with the Judgment of this Hon. Court delivered on the 16/06/2025, the Applicants have filed a notice of appeal against same and have also applied for compilation and transmission of records to the Court of Appeal.

That the grounds contained in the Notice of Appeal are arguable and raise vital and substantial issues of law to be decided on appeal. And that it will be in the interest of Justice to grant this application.

A written address was filed wherein, the issue, *whether the Applicants are entitled to the grant of an order for a stay of execution and injunction pending appeal* was formulated for determination.

Learned Counsel submitted that it will be in the interest of justice for this Hon. Court to grant this application pending the hearing and determination of the appeal of the Applicants.

Reacting to the application, the Applicants/Respondents filed a counter affidavit of 6 paragraphs deposed to by one Lois Ntomode, a litigation Secretary in the law firm of the judgment creditor/Respondents.

It is the deposition of the Respondents that there is no substantial issue of law raised in the Notice of Appeal filed and no res will be destroyed if the application is refused.

That the Judgment Creditors are homeless and the grant of stay of execution of this Judgment will greatly jeopardize and prejudice the Judgment creditors as the Judgment Creditors are entitled to reap the fruits of the Judgment in this case.

That this motion is incompetent as presently constituted and there is no special circumstance to warrant the grant of stay of execution.

Learned Counsel filed a written address, wherein the issue, *whether or not this application can be granted as presently constituted* was formulated for determination.

Learned Counsel submitted that the condition for stay of execution was not met by the Applicants and therefore application should be dismissed.

On the part of Court, the principles guiding the grant of an application for stay of execution are well established. The vital conditions necessary to be satisfied before a grant of an order for stay of execution are as follows:

- (a) There must be a competent appeal and the grounds of appeal must raise substantial legal issue in an area of law that is novel or recondite.**
- (b) There must be special and exceptional circumstances justifying the grant of the application.**

See **OYELAMI VS. MILITARY ADMINISTRATOR OF OSUN STATE (1999) 8 NWLR (Pt. 613) 45 at 57 para. C.**

In considering an application for a stay of execution or injunction the grounds of appeal should not be taken in isolation, rather it is the effect or refusal of the application on the Applicant if he subsequently wins the appeal that is of utmost importance. A stay of execution stops temporarily the beneficiary of the Judgment from enjoying the fruits of the Judgment while the appeal is being heard. It is granted before the hearing of the appeal and stays in force right through the hearing of the appeal. The aim being to protect the *Res* from destruction, thereby avoiding a situation where the Court hearing the appeal is presented with a *fait accompli*. A stay of execution would be granted if the Applicant is able to show special and exceptional reasons **SPDC (NIG) LTD VS. AMADI & ORS. (2011) LPELR 3204 (SC)**.

The Court in considering application of this nature should consider the following functions:

- (1) *The chances of the Applicant succeeding on appeal, if the chances are non-existent, than a stay of execution will be refused.*
- (2) *The nature of the subject matter in dispute whether maintaining the status quo until final determination of the appeal in the case will meet the justice of the case.*
- (3) *Whether if the appeal succeed the Applicants will not be able to reap the benefit of the Judgment on appeal.*
- (4) *Where the Judgment is in respect of money and costs whether there is a reasonable probability of recovering the money back from the respondent if the appeal succeeds.*
- (5) *Poverty is not a special ground for granting a stay of execution except where the effect will be to deprive the appellant of the means of prosecuting his appeal.*

See **NWABUEZE VS. NWOSU** (1988) 4 NWLR (Pt. 88) 257.

It is instructive to state here that, the Judgment sought to be stayed has component of a monetary Judgment as cost was awarded. For avoidance of doubt only reliefs 4 and 5 granted that are enforceable. The said reliefs are hereby reproduced;

Reliefs 4

“The sum of ₦200,000,000 only against the Respondents jointly and severally as compensation for the breach of the fundamental rights of the Applicants.”

Reliefs 5

“It is further ordered that the Respondent should relocate the Applicants to any other place as it was done for the people of Wuse and Maitama who were relocated to Kubwa, Abuja.”

The question is, would the subject matter of this suit be destroyed for failure to stay the execution of this Judgment? The answer is certainly No.

The next question is, where/if the appeal succeeds, would there be return to status quo? Certainly, the answer again is in affirmative.

I have equally seen the said Notice of Appeal, from the face of the Notice, it is obvious that the Appeal has not been entered, the record has not been transmitted. This Judgment was delivered on the 16/06/2025 and the motion was taken on the 02/10/2025, yet the appeal has not been entered.

It is trite that to grant or refuse an application for stay of execution involves the discretion of Court, the discretion must take into account the competing rights of the parties to justice. A discretion that is biased in favour of an Applicant for a stay but does not adequately take into account the Respondent's equal right to justice is a discretion that has not been judicially exercised.

From the facts before me and realizing the right of the Applicants to pursue their appeal at the Court of Appeal, I shall bend backward by granting this application partly.

The execution of the Judgment of this Hon. Court delivered on the 16/06/2025 is hereby stayed on terms. The Applicants are hereby ordered to deposit the Judgment sum been **₦200,000,000.00** into interest yielding account with the Chief Registrar of this Hon. Court within 60 days, failure of which the Judgment Creditor/Respondents are at liberty to execute the monetary Judgment of this Court in relief 4 of the Judgment.

**SIGNED:
HON. JUDGE
05/11/2025.**

APPEARANCE:

Sylvester Ogbelu, Esq, for the Judgment Creditors/Respondents

Idris Suleiman,, Esq, for the 1st – 5th Judgment Debtors/Applicants

No Appearance for the 6th & 7th Judgment Debtors/Respondents