

IN THE HIGH COURT OF THE FEDERAL CAPITAL TERRITORY

HOLDEN AT JABI ABUJA

DATE: 20TH DAY OF FEBRUARY, 2020
BEFORE: HON. JUSTICE M.A NASIR
COURT NO: 10
SUIT NO: CV/2496/2019
MOTION NO: M/8054/2019

BETWEEN:

- | | | |
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| 1. REG. TRUSTEES OF THE INDEPENDENT
PETROLEUM MARKETERS ASSOCIATION
OF NIGERIA | }
} | CLAIMANTS/APPLICANTS |
| 2. CHIEF OBASI LAWSON | | |

AND

- | | | |
|----------------------------|--------|-----------------------|
| 1. ELDER CHINEDU OKORONKWO | }
} | DEFENDANTS/RESPONDENT |
| 2. ALHAJI DANLADI PASALI | | |

RULING

Before this Court is a motion on notice with No. M/8054/19 filed by the claimants/applicants on the 22/7/2019. The motion is praying for an order of interlocutory injunction restraining the defendants their agents and privies from parading themselves as the National Chairman and National Secretary of the

Independent Petroleum Marketers Association of Nigeria respectively pending the hearing and determination of the substantive suit.

The application is supported with an affidavit of 29 paragraphs, bundle of documents were attached and a written address duly adopted by **Chijioke Dike Esq.**

On their part, the 1st and 2nd defendants/respondents filed a 28 paragraphs counter affidavit dated 24/10/2019 with bundle of documents attached. Learned counsel to the respondents Orsooty T. Lough Esq filed a written address and duly adopted same before the Court.

What the Court has been called upon to resolve now is whether the applicant has satisfied the conditions necessary to justify the Court to exercise its discretion in his favour.

It should be borne in mind that the whole essence of interlocutory injunction is to restrain a party from taking

special steps. It is made before the actual trial of a case and is granted to keep matters in status quo until trial. See Anthony vs. Surveyor Gen. Ogun State (2007) All FWLR (part 354) page 375 at 390, Novartis Pharma Services Inc. vs. Swissco Nig. Ltd (2004) 2 NWLR (part 856) page 28. An interlocutory injunction is an injunction that is directed to ensure that particular acts do not take place or continue to take place pending the final determination of the rights of the parties. The purpose is to regulate the position of the parties pending trial while avoiding a decision on such issue which could be resolved at trial. See Ranston Properties Ltd vs. FBN Plc (2007) All FWLR (part 392) page 1954 at 1964.

I have had a cursory look at the averments for and against this application as elucidated in the various affidavits filed by the parties. Perusing the relief sought in this instance and going through the documents in the case file, I have realized that this relief is on all fours with Relief 4 in the Writ of Summons and Statement of Claim.

By the said Relief 4, the claimants are praying for an order of interlocutory injunction, restraining the defendants, their privies and all those claiming through them from parading themselves as National President and National Secretary of the Independent Petroleum Marketers Association of Nigeria unless and until the judgment of the Federal High Court Calabar delivered on the 21/2/2019 is set aside. I have also noted that the facts in the supporting affidavit relate to the facts in the substantive suit.

No matter how differently couched the law is settled in a galaxy of judicial authorities, that a court of law is drained of the jurisdiction to delve into substantive reliefs and make pronouncements that will have the effect of determining them at an interlocutory stage. In the case of S.D.C. Cementation (Nig.) Ltd. & anor. vs. Nagel & Co. Ltd. & anor. (2003) 4 NWLR (part 811) 611, Ogbuagu, JCA (as he then was), stated the position of the law thus:

"The apex court of the land has cautioned and this is firmly settled, that a court, while dealing with preliminary or interlocutory matters, is not entitled to make any comment, pronouncement or observation in its ruling on that application, which might appear to pre-judge or pre-empt the main issue in the proceedings relative to the interlocutory application or which would prejudice the fair hearing of the substantive suit".

See Nigerian Bar Association vs. Odiri, Esq. & anor. (2007) LPELR-8210 (CA)

The law is immutable that a court in deciding an Interlocutory application should not delve into the merit of the case or pre-determine the issues to be tried at the hearing of the case. This is the outcome of the decision of the Court in the case Nigerian Civil Service Union vs. Essien (1985) 3 NWLR (part 12) 306 at 316 where Nnameka – Agu J.C.A. (as he then was) stated:

"In this state of the facts, it appears to me that ... the learned trial judge was in error to have proceeded to hear and determine the application for injunction, the affidavit in support of which depended largely on the main issue which had been joined in the substantive suit at this stage."

It is trite that where an application for interlocutory injunction involves trying the issue twice, first by affidavit in an interlocutory injunction and secondly by evidence in the main case, the correct procedure is not to proceed with the application for interlocutory injunction but to accelerate the trial of the main case by fixing it for trial. See Ojukwu v. Military Governor Lagos State (1985) 2 NWLR (part 10), John Holt Nig. Ltd. v. Holts African Workers Union of Nigeria & the Cameroons (1963) 1 All NLR 379,

In the circumstance, I am of the considered view and I hold that any pronouncement made in respect of this application will be tantamount to delving into the

substantive suit at an interlocutory stage. Thus this application will be refused.

However under the omnibus prayer, the Court may grant some orders as it deems necessary. Therefore premised on the provision of Order 4 Rule 9 of the Rules of this Court 2018 which provides that:

“Every originating process shall contain an endorsement by the Registrar that parties maintain status quo until otherwise ordered by the Court.”

In the circumstance, parties are directed to maintain status quo and be guided by the doctrine of *lis pendens*. I order for accelerated hearing of this suit as practicably as possible.

SIGNED

HONOURABLE JUDGE

Appearances:

Chijioke Dike Esq – for the claimants/applicant

O.T. Lough Esq with him D.A. Nimbe Esq - for the
defendants/respondents