

**IN THE HIGH COURT OF JUSTICE OF THE FEDERAL CAPITAL
TERRITORY
IN THE ABUJA JUDICIAL DIVISION
HOLDEN AT KUBWA, ABUJA
ON TUESDAY, THE 7TH DAY OF FEBRUARY, 2020
BEFORE HIS LORDSHIP: HON. JUSTICE K. N. OGBONNAYA
COURT 26.**

SUIT NO.: FCT/HC/CV/1747/16

BETWEEN:

E-JOMES NIGERIA LIMITED

PLAINTIFF

AND

1. C.G.C NIGERIA LIMITED

2. HON. MINISTER FEDERAL CAPITAL TERRITORY

3. ABUJA METROPOLITAN MANAGEMENT AGENCY

4. DEPARTMENT OF PARKS AND RECREATION AMMA

5. DEPARTMENT OF DEVELOPMENT CONTROL AMMA

**6. DIRECTOR, DEPARTMENT OF DEVELOPMENT
CONTROL AMMA**



DEFENDANTS

RULING

On the 17th day of May, 2016 the Plaintiff instituted this action against the 6 (six) Defendants claiming for Perpetual Injunction restraining the Defendants and their privies, agents, etc from trespassing and demolishing or continued trespassing on the Park No: 4483 A00 hence after known as the Res.

The Plaintiff also want Twenty Million Naira (N20, 000,000.00) only as general damages for trespass on the Res and Two Million Naira (N2, 000,000.00) only as specific damages.

Upon receipt of the Originating Process the Defendants filed a Motion on Notice on the 30th day of November, 2018 challenging the competency of the suit of the Plaintiff on the ground that the Originating Process was not properly filed in that it was not signed and therefore not commencedly due process of law. That failure of Plaintiff counsel to sign the document renders it worthless and robs the Court of the jurisdiction to entertain same.

The Defendant Counsel supported the application with an Affidavit of 10 paragraphs deposed to by Maureen Peter Whyte.

In the Written Address he raised one Issue for determination which is:

“Whether the Writ not having been signed by the Plaintiff’s Counsel is proper and well constituted as to activate the jurisdiction of this Court?”

He submitted that the Writ of Summons is an initiating process to the invocation of the jurisdiction of the Court. He referred to the case of:

**Abass V. Tera
(2013) 2 NWLR (PT. 1338) 284 @ 291 – 2**

He submitted that since the Writ was not signed, the Court lacks the jurisdiction to entertain this suit. He referred to the case of:

**Ehindero V. FRN
(2014) 10 NWLR (PT. 1312) 281**

That the Writ was not signed by A.W. Chijioke and the inscription “SIGNED” at the foot of the Writ does not constitute signing of the Writ of Summons. That non-signing makes the Writ worthless and robs Court of the jurisdiction to entertain the suit. He referred to the case of:

**Estate of Efejuku V. Aziza
(2013) 11 NWLR (PT. 1365) 307 @ 335**

That since the document is not signed but stamped the Court should shrink it out. That the signature of Counsel is required on Court Process. He cited the case of:

**Aremu V. Shinaba
(2014) 8 NWLR (PT. 1408) 63 @ 73**

That unsigned document does not carry any evidential value. That Court should not admit the document or attach any evidential value to the document as such document does not have efficacy in law. He referred to the case of:

**Ezechukwu V. Onwuka
(2003) FWLR (PT. 175) 528 @ 542**

That non-signing of the Writ goes to the root of the Suit and robs the Court the jurisdiction to entertain the Suit. He urged the Court to dismiss the Suit.

In opposition the Plaintiff filed a Counter Affidavit of 12 paragraphs deposed to by Oko Egwu Morris.

In the Written Address the Plaintiff raised two (2) Issues for determination which are:

(1) “Whether the Writ of Summon was duly issued to evoke the jurisdiction of the Court.”

(2) “Whether this Motion amount to abuse of Court Process.”

That the Writ was signed. Again that by the provision of **Ord 4 R 12 (1) & (2)** the signature of the Plaintiff Counsel is not mandatorily required on the Writ. That the Plaintiff Counsel had in averment in the Counter Affidavit stated that the Writ was signed. He referred to the case of:

**Shuaibu V. Muazu
(2007) 7 NWLR (PT. 1033) 271**

That omission to sign the Writ of Summons is mere irregularity and does not render the claims of the Plaintiff void. That the present Writ was assessed at the Registry, filing fees paid and the Writ duly issued.

That improper use of judicial process to delay, irritate, harass, annoy and intimidate amounts to abuse of Court Process. He referred to the case of:

**Pavex International Co. Ltd V. IBWA
(1994) 5 NWLR (PT. 347) 685**

That the present application is a ploy by Defendant to delay the Suit. That on the 23rd day of September, 2016 the Defendant filed a Preliminary Objection to strike this Suit out on the ground that the Writ was not signed. The Court refused the application and ordered that the Defendant file their Statement of Defence. He referred the Court to paragraph 6 & 7 of Affidavit in support and the record of the Court.

He urged the Court to hold that this application is an abuse of Court process and as such the Court should dismiss it for lacking in merit and an attempt to waste the time of the Court.

COURT

This Court adopts its Ruling on a similar application filed by the Defendant on the 23rd day of September, 2016. This present Motion is a gross abuse of Court process and a deliberate ploy to delay this Suit.

The Motion lacks merit and it is dismissed and cost of Five Thousand Naira (N5, 000.00) only is awarded against the Defendant for wasting the time of Court and abusing Court process.

This is the Ruling of this Court.

Delivered today the —— day of —— 2020.

K.N. OGBONNAYA
HON. JUDGE