

IN THE HIGH COURT OF JUSTICE OF THE F.C.T.
IN THE ABUJA JUDICIAL DIVISION
HOLDEN AT KUBWA, ABUJA
ON TUESDAY, THE 6TH DAY OF FEBRUARY, 2020
BEFORE HIS LORDSHIP: HON. JUSTICE K. N. OGBONNAYA

JUDGE

SUIT NO.: FCT/HC/CV/1397/16

BETWEEN:

MOSES SUNDAY AJEHSON

PLAINTIFF

AND

1. ENGR. SAM ODOFIN

2. UNKNOWN AND UNAUTHORIZED PERSON

}
}

DEFENDANTS

JUDGEMENT

The Court has the right at all times to do substantial justice to all men irrespective of their biological nomenclature, creed or socio-economic inclinations.

This matter as the Court had stated earlier today was mentioned in this Court on the 23rd day of May, 2016. Till date there through pleadings have been exchanged and issues joined. It is obvious that the Plaintiff has been deliberately not serious in prosecuting the Suit. There is a cost

of Ten Thousand Naira (~~₦~~10, 000.00) which the Court awarded suo motu against the Plaintiff that is yet to be paid. The issue of change of Counsel had taken the Plaintiff over a year. Till today that issue is yet to be effectively dissolved.

The so called Counsel is not in Court. The Counsel holding his brief is equally not serious as he told the Court he does not have the case file with him and most probably he has never seen the case file and of course does not most probably know the issue in dispute.

The Defendant Counsel had applied for the matter to be dismissed citing Order 32 Rule 4 which gives the Court Right to dismiss a case once the Plaintiff is absent and there is no Counter Claim. He had asked for cost of One Hundred Thousand Naira (~~₦~~100, 000.00) in the alternative. The Plaintiff Counsel challenged that.

But should this Court grant the alternative prayer of awarding One Hundred Thousand Naira (~~₦~~100, 000.00) since the Ten Thousand Naira (~~₦~~10, 000.00) awarded since the 19th day of March, 2019 has not been paid by the Plaintiff.

Or should this Court dismiss the Suit since the provision of Order 32 Rule 4 used the word "SHALL" also since the Plaintiff is the one who has consistently wasted the time and resources of Court and government by absenting himself from Court most of the time. The Court had noted that it is even the Defendant that usually ensure that Plaintiff is served with Hearing Notices.

It is my humble view that the best thing to do in this circumstance of this case is to DISMISS the Suit as provided for in Order 32 Rule 4.

After all fair-hearing is open to all parties and enjoyment of fair-hearing is not open ended. It must be enjoyed reasonably and responsibly. Again all parties in a Suit have their right to be heard and heard fairly and reasonably too.

Not hearing this matter for four (4) years is way too long. This Suit is therefore DISMISSED.

This is the Ruling of this Court.

Delivered today the _____ day of _____ 2020 by me.

K.N. OGBONNAYA
HON. JUDGE