

**IN THE HIGH COURT OF THE FEDERAL CAPITAL TERRITORY**  
**IN THE ABUJA JUDICIAL DIVISION**  
**HOLDEN AT MAITAMA ABUJA**

**BEFORE HIS LORDSHIP: HON. JUSTICE JUDE O. OKEKE FICMC**

**ON MONDAY THE 23<sup>RD</sup> DAY OF MARCH, 2020**

**SUIT NO: FCT/HC/CV/773/2009**

**MOTION NO: FCT/HC/CV/M/285/2018**

**BETWEEN:**

**UNIQUE FUTURE LEADERS INTERNATIONAL LIMITED....** **JUDGMENT  
CREDITOR/  
APPLICANT**

**AND**

(1) **FEDERAL CAPITAL DEVELOPMENT AUTHORITY**  
(2) **MINISTER, FEDERAL CAPITAL TERRITORY**  
(3) **ALHAJI ABUBAKAR SIDDEEQ MUHAMMED** } **JUDGMENT DEBTORS/  
RESPONDENTS**  
(Trading under the name and style of **MUHAMMAD  
Tabfeezul Qu'ran Enterprises**).

**RULING**

By a Motion Exparte filed on 6/11/2018 and predicated on Order 7 Rule 11(1) & 2 (b) of the Rules of Court 2018, the Judgment Creditor/Applicant seeks for the following reliefs:-

- “(1) AN ORDER granting leave to the Judgment Creditor/Applicant to commence committal proceedings in this matter against Mohammed Bello (The 2<sup>nd</sup> Judgment Debtor/Respondent) for the enforcement of the orders contained in the judgment of the High Court of the Federal Capital Territory (Coram:- The Honourable Justice Jude O. Okeke) delivered on 19<sup>th</sup> September, 2012 and the Judgment of the Court of Appeal in Appeal no: CA/A/614/2012 (Coram: Adumein, Akomolafe – Wilson and Mustapha, JJCA) delivered on 13<sup>th</sup> June 2014.
- (2) AN ORDER granting leave to the Judgment Creditor/Applicant to serve form 48, subsequent form 49, as well as all other processes for the enforcement of the orders contained in the said Judgments in this suit and the Court of Appeal in Appeal no: CA/A/614/2012 by substituted means on Mohammed Bello (the 2<sup>nd</sup> Judgment Debtor/Respondent) to wit; by delivering the said process/processes to the Director of Litigation, Legal Services Department, Federal Capital Development Authority Secretariat, Kapital Street, Area 11, Garki, Abuja.
- (3) AND FOR SUCH FURTHER ORDER(S) as this Honourable Court may deem fit to make in the circumstance”.

The application is supported by a 17-paragraph affidavit deposed to by Dr. Isaac Abiodun and Written Address of the Applicants counsel.

At the hearing on 16/1/2020, Counsel for the Applicant adopted his Written Address as his oral submission in support of the application. Ruling was then reserved.

In the affidavit in support, it was avered on behalf of the Applicant, inter alia, that this Court on 19/9/2012 delivered its judgment in the substantive suit and the Court of Appeal, Abuja in Appeal no: CA/A/614/2012 (Coram: Adumein, Akomolafe – Wilson and Mustapha JJCA) delivered its Judgment on 13/6/2014 wherein it affirmed and upheld the decision of this Court. Certified Copies of both Judgment are attached as Exhibits 1A and 1B respectively.

By the said judgment, orders for damages, specific performance, Perpetual Injunction and cost were made against the Respondents in their joint and several capacities in favour of Applicant.

The Respondent withdrew his Notice of Appeal filed at the Supreme Court of Nigeria in Appeal no:- SC/825/2014. A certified copy of the Notice of withdrawal of Appeal is attached as Exhibit 1C.

The 1<sup>st</sup> and 2<sup>nd</sup> Respondents received from the Applicant the Certificate of Occupancy fees in the cumulative amount of N23,395,424.88. The forwarding letter dated 14/7/2014 together with the Diamond Bank Drafts/Manager's cheques in the said amount are attached as Exhibits 2A and 2B respectively. Also the letter of instruction from the Applicant to Ritzy Engineering Construction Limited evidencing the withdrawal of the said amount and credit of same to the accounts of AGIS are attached as Exhibits 2C and 2D respectively.

The Applicant has severally written letters of Demand for the Respondents to comply with the orders of Court as contained in Exhibits 1 and 2. The

letters of Demand are attached as Exhibits 3A to 3H respectively but the Respondent has refused/failed to comply with the said orders of Court.

A recent legal search of the plot conducted by the Applicant revealed that the title of the Applicant is withdrawn as at the date of search which is 8/3/2018 and until date has not been restored. A copy of the Search Report and receipt for payment for it are attached as Exhibits 4A and 4B respectively.

Following the failure of the Respondents to comply with the orders contained in Exhibits 1A and 1B, the Applicant caused form 48 to be issued against Mohammed Bello (the 2<sup>nd</sup> Respondent). The said form 48 is attached as Exhibit 5.

Mohammed Bello (The 2<sup>nd</sup> Respondent) is a high ranking officer of the Federal Government of Nigeria who cannot be easily accessed for the purpose of effecting personal service of the said Court process.

The Director of Litigation, Legal Service Department, Federal Capital Development Authority Secretariat works directly under Mohammed Bello (The 2<sup>nd</sup> Respondent) and she has a direct contact relationship and connection with Mohammed Bello.

The Offices of both the said Director of Litigation and Mohammed Bello are located in the same building/Premises and she reports directly to Mohammed Bello.

Delivery of Form 48 and the subsequent Form 49 as well as all other judgment enforcement processes in this suit on the said Director of Litigation will bring same to the prompt notice and knowledge of Mohammed Bello.

Leave of this Court is required for service of the said Form 48 and subsequent Form 49 and other Judgment enforcement processes on Mohammed Bello by substituted means.

It will be prompt and convenient to effect service of the said Form 48 and subsequent Form 49 as well as other Judgment enforcement processes on Mohammed Bello by substituted means as sought.

The Respondents will not be prejudiced by a grant of this application.

In his Written Address in support, Olawole Oyeboode Esq. of Counsel for the Applicant raised a sole issue for determination thus:

“Whether it is in the interest of justice for this Honourable Court to allow this application in the entire circumstances of this case”.

Treating the issue, the learned Counsel submitted inter alia, that Order 7 Rule 11(1) & (2)(h) of the Rules of Court 2018 empowers the Court to grant leave to the Applicant to serve Form 48 subsequent Form 49 as well as other processes for the enforcement of the judgment of this Court by substituted means.

He contended that the purpose of service, whether personal or substituted is to put the other party on notice so that he can be aware of the Court processes. He referred to UNITED NIGERIA PRESS LTD & ANOR V ADEBANJO (1969) 6 NSCC P. 395 and contended that this Court has the powers to allow an application of this nature as the entirety of the affidavit of the Applicant demonstrate that personal service for Form 48 and subsequent Form 49 and other processes for enforcement of judgment of this Court cannot promptly and conveniently effected on Mohammed Bello on whom substituted service of the said processes is sought.

The affidavit also demonstrate that substituted service in the manner sought will bring the processes to his notice.

Counsel further contended that the application ought to be granted as it is meant to preserve the majesty of the Court by ensuring that its judgment is obeyed and respected. He referred to ALI & ANOR V OSAKWE & 2 ORS (2009) 14 NWLR (PT. 1160) P. 75 and urged the Court to grant the application.

I have carefully weighed the averments in the Applicant's affidavit in support and submissions of its learned Counsel.

Order 7 Rule 11 of the Rules of Court 2018 gives the Court the general powers to make an order for substituted service of an originating process where it is satisfied that prompt service cannot be effected if personal service is to be effected.

In Order 7 Rule 11(2), the Rule lists out the modes of substituted service which the Court can direct for service of the process. Rule 11(2)(b) provides for service on some person or agent of the person to be served upon it being proved that there is a reasonable probability that the document would in the ordinary course through that agent or other person come to the knowledge of the person to be served. For clarity, the Rule provides thus: -

“Where it appears to the Court (either after or without an attempt – at service) that for any reason prompt service cannot be conveniently effected, the Court may order that service be effected either by –

(a). ....

(b). delivery to some persons being an agent of the person to be served or to some other person on it being proved that there is a reasonable probability that the document would in the ordinary course, through that agent or other person come to the knowledge of the person to be served;....”

It is instructive to mention that this provision of the Rules of Court is applicable to every situation where service of an originating process is required by the Rules of Court or any other enactment and the Court is satisfied that prompt service cannot be effected.

In the instant application, the Applicant seeks to have Forms 48 and 49 provided for by the Judgment Enforcement (Procedure) Rules made

pursuant to the Sheriffs and Civil Process Act to be served on the 2<sup>nd</sup> Respondent by substituted means ie by having them served on the Director of Litigation of Legal Services Department of the 1<sup>st</sup> Respondent. The reason for this as averred in the affidavit in support is that by reasons of his office, the 2<sup>nd</sup> Respondent is a high ranking officer of the Federal Government of Nigeria who cannot be easily accessed for the purpose of effecting person service of the processes on him. That the Director of Litigation of Legal Department of the 1<sup>st</sup> Respondent works directly under him and has direct contact and connection with him. That their offices are located in the same premises hence service of the processes on the Director will reasonably bring the processes to the notice of the 2<sup>nd</sup> Respondent.

I have given due consideration to the foregoing averments of the Applicant. I take judicial notice under Section 122(b) of the Evidence Act 2011 that the 2<sup>nd</sup> Respondent is in Section 18 of the Federal Capital Territory Act given the powers to function as the Chairman of the 1<sup>st</sup> Respondent. By this, it stands to reason that it may not be easy to gain access to him for the purpose of effecting personal service of Court processes on him. This being the case, the Court is satisfied that a process served on the Director of Litigation in the Legal Services Department of the 1<sup>st</sup> Respondent will reasonably and promptly get to his attention being head of the 1<sup>st</sup> Respondent and an authority to whom the Director aforesaid is answerable to. I am also satisfied upon perusal of Exhibits 1A and 1B that the Respondent have not complied with the order made therein against them in favour of the Applicant. Orders of Court are meant to be obeyed.



By reason of the foregoing, the Court is minded to exercise the discretion given to it under Order 7 Rule II(1) and (2)(b) of the Rules of Court in favour of this application in the interest of justice. Accordingly, this application succeeds. It is directed as follows: -

- (i). Leave is granted to the Applicant to commence committal proceedings in this matter against the 2<sup>nd</sup> Respondent for the enforcement of the orders against the Respondent contained in Exhibits 1A and B attached to this application.
- (ii). Leave is granted to the Applicant to serve Forms 48 and 49 and other processes for the enforcement of the orders aforesaid against the 2<sup>nd</sup> Respondent by substituted means ie by delivering them to the Director Litigation, Legal Services Department of the 1<sup>st</sup> Respondent.

**Signed**  
**Hon. Judge**  
**23/3/2020**

**LEGAL REPRESENTATIONS:**

- (1) Olawele Oybode Esq for the Judgment Creditor/Applicant.
- (2) No legal representation for the Judgment Debtors/Respondents.