

IN THE HIGH COURT OF JUSTICE FEDERAL CAPITAL TERRITORY

IN THE ABUJA JUDICIAL DIVISION

HOLDEN AT JABI, ABUJA

BEFORE HIS LORDSHIP: HON. JUSTICE D. Z. SENCHI

COURT CLERKS: T. P. SALLAH & ORS

COURT NUMBER: HIGH COURT NO. 13

DATE: 19TH FEBRUARY, 2020

FCT/HC/CV/538/2019

BETWEEN:

MR. SIKIRU LAWAL ADESINA-----

APPLICANT

AND

**1. NIGERIA ELECTRICITY LIABILITY
MANAGEMENT COMPANY LTD/ GTE
2. TRANSMISSION COMPANY OF NIGERIA**

RESPONDENTS

RULING

Parties:- Absent.

Ibrahim Audu:-For the Claimants

Ibrahim Angulu:-For the Defendants

Audu:- The matter is for hearing. We are ready.

Angulu:- We are equally ready.

Audu:- We have an originating motion before the Court dated the 21st May, 2019 and filed on the same date. The case is a transferred case from Federal High Court.

The motion was brought pursuant to order 2 Rules (1), (2) and (3) of the Fundamental Right Enforcement Procedure Rules(FREPR) section 44 (1),(a) of the 1999 Constitution of the Federal Republic of Nigeria articles 2

(7) (1) of the African Charter on Human Rights Ratification and Enforcement Act and under the inherent jurisdiction of this Court.

In support is a statement of the Applicant, affidavit in support and a written address. We adopt the written address. I move in terms of the motion papers.

Angulu:- We oppose the application and we have filed a 16 paragraph counter affidavit and an address dated 18th October, 2019. We adopt our address in opposition and urge the Court to dismiss the suit.

Audu:- The counter affidavit of the Defendants was filed out of time and no application brought to deem same out of time.

Court:- I have perused the processes filed by both parties especially the reliefs sought by the Applicants, and having perused the affidavit evidence of both parties, I am of the humble view that this suit cannot be adequately adjudicated and determined pursuant to Fundamental Rights Enforcement Procedure Rules 2009. In other words, a close perusal of the principal relief which bothers on declaration, I am of the humble view that the appropriate mode of commencing this suit should be by a writ of summons accompanied with a statement of claim.

I have equally listened to submission of the Claimant's Counsel to the effect that the Court should evoke its

inherent powers in the interest of justice and order pleadings. I quite agree with the Claimant's Counsel's position because it would afford parties to ventilate on the grievances against them and the case be determine on its merit.

However, as I said earlier, the mode of commencement of a suit is crucial and it is a threshold issue. The present method adopted by the Claimants is not the proper mode and ordering pleadings will amount to putting the cart before the horse.

In the circumstance, the Claimants to initiate their suit by a proper mode of commencing a suit that will accommodate the instant reliefs sought. Accordingly the instant suit is hereby struck out.

HON. JUSTICE D.Z. SENCHI
(PRESIDING JUDGE)
19/02/2020