

IN THE HIGH COURT OF THE FEDERAL CAPITAL TERRITORY

IN THE ABUJA JUDICIAL DIVISION

HOLDEN AT APO

CLERK: CHARITY

COURT NO. 16

SUIT NO:FCT/HC/CV/895/2020

M/7242/2020

DATE: 10-6-2020

BETWEEN:

DR. KENENNA OBIATUEGWU CLAIMANT/APPLICANT

AND

NIGERIA MEDICAL ASSOCIATION..... DEFENDANT/RESPONDENT

RULING

(DELIVERED BY HON. JUSTICE S. B. BELGORE)

In this application vide a motion on notice M/7242/20, the claimant/applicant prayed for the following reliefs:

- (a) An order granting leave to join as parties to this suit the Registered Trustees of the Nigeria Medical Council.

- (b) The National Executive Council of NMA.

In support is an 8 paragraphs affidavit deposed to by Christoper Ideh. There is also a witness address.

Learned counsel to the applicant, Mr. Johnson Ahuruonye moved the application summarily about 10 minutes ago. He urged me to grant the application upon

reliance on the content of the supporting affidavit and adoption of the written address as his argument.

In a short reply on points of law, learned counsel relied on Order 13 Rules 4 and 5 of the Rules of this court in saying they are perfectly in order to bring this application.

In opposition to the grant of this application, Mr. A.B. Eleburuike, referred to their 11 paragraphs counter-affidavit, placed reliance on the contents of the affidavit and argued that there is no material facts upon which the court can exercise its discretion in granting this application. He referred to the case of **EJORKELE VS NWAFOR (2003) 15 NWLR (PT.1110)418**, and urged me to dismiss this application with substantial cost.

Interestingly, Mr. Ahurounyef counsel to the applicant cited the same case of **NWOSU(Supra)** in support of his argument that the court can grant this application.

Mr. Lagi speaking as a friend of the court, submitted that it is not for a course to Defendant and indeed anybody to tell the Plaintiff who to bring to court as a Defendant.

To my mind, there is no reason for much furore about this application.

A Plaintiff has a duty to bring to court all parties whose presence are crucial to the resolution of the case. See **ADISA VS OYINWOLA(2000)6 SC(PT. 11)47**.

The rule which cannot be over emphasised is that persons against whom complaints are made in an action must be made parties to the suit. See **MOBILE OIL PLC VS D.E.N.R LTD(2004) 1 NWLR(PT. 853) 142.**

Furthermore, parties to an action have been classified as proper, desirable and necessary parties. Proper parties are those who, though not interested in the claimant's claims are made parties for some reasons, desirable parties are those who have an interest or who may be affected by the result while necessary parties are those who are not only interested but in whose absence the proceedings cannot fairly dealt with. See **OJO VS OGBE(2007) 9 NWLR(PT.1040) 542, MOBILE OIL PLC VS D.E.N.R LTD (Supra).**

Now, the parties sought to be joined case joined are the Registered Trustees of NMA and the National Executive Council of the same NMA.

Paragraphs 2 of 5 to 13 of the supporting affidavit to the original summons alluded to the fact that these Association (NMA) is a Registered Professional Association of Medical Practitioners in this country and that they do elect National Officers. Exhibit A attached to the affidavits i.e. constitution of NMA attested to the same facts.

Having regard to the above therefore, it is clear to me that to effectually and completely dispose of this matters or issues in this case, I should consider the Registered Trustees and National Executive council as both desirable and necessary parties. And therein lies the merit of this application.

The counter-affidavit of the Respondent in my view is very shallow. Like is full of conclusions and arguments which when struck out as per **S.115 of the Evidence Act,2011**, leaves the affidavit hollow. For instance, paragraph 8(1),(2),(3) etc and 9 are all arguments and conclusions.

In short, and not to waste further precious time of this court, this application meritorious and it is hereby granted as prayed.

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Suleiman Belgore
(Judge) 10-6-2020