

IN THE HIGH COURT OF JUSTICE OF THE F.C.T.

IN THE ABUJA JUDICIAL DIVISION

HOLDEN AT KUBWA, ABUJA

ON WEDNESDAY, THE 15TH DAY OF JULY, 2020

BEFORE HIS LORDSHIP: HON. JUSTICE K. N. OGBONNAYA

JUDGE

SUIT NO.: FCT/HC/CV/1667/20

BETWEEN:

DAPO APARA.....CLAIMANT

AND

ALPHA-BETA LIMITED LIABILITY PARTNERSHIP.....DEFENDANT

BENCH RULING

In this case the Plaintiff/Claimant filed an action on Originating Summons against the Defendant. There was a pending motion on the name of the party sued as a Defendant. The motion was not yet heard. The Plaintiff applied to withdraw the action. The Defendant raised an objection. It is imperative to state

that, it is the right of a party to apply to withdraw a case at any stage. No Court can force party to go on. Where the party does not want to go on, the highest penalty the Court can award is Cost if it is necessary. That applies where evidence has been called and all parties have taken very bold steps and pleadings exchanged fully and matter is ready for Hearing.

In this Case the matter is not for ripe hearing yet because it was adjourned for response on the motion served. In as much as the matter is Originating Summons issues have not been joined. The motion to be responded to was on the haggle about the name of the actual party sued as Defendant. So the Submission of the Defendant Counsel challenging the application to withdraw and asking for Cost and to dismiss the Suit is erroneous, misleading and deceptively wrong. In some of the cases if not at all, cited by Defendant Counsel Parties in those cases had exchanged their Pleadings completely. In this case the Defendant is yet to be known. The submission that the processes filed by the

“Defendant” in this Suit all scream that they are not the Defendant coming from Lagos or wherever is a different story. The Event which the Defendant Counsel Claims heralds Cost is not strong enough to warrant this Court awarding Cost.

No Cost awarded the Plaintiff has the right to withdraw this Suit as it is evidently clear that issues are not yet joined and Defendant is not yet known. Again there is an application yet to be heard to determine the name of the Defendant.

The Defendant Counsel asking for Cost knows about it. Application to dismiss this Suit NOT GRANTED Application to withdraw granted. No Cost awarded. Suit is hereby Struck Out. This is the Ruling of this Court delivered today the day of.....2020.

K.N.OGBONNAYA
HON.JUDGE