

**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
HON. JUDGE HIGH COURT NO. 12
COURT CLERKS: T. P. SALLAH & ORS**

DATE: 10/11/2020

FCT/HC/CV/1603/19

BETWEEN

SAMUEL NWOGA

CLAIMANT

AND

**1. FIRST BANK OF NIG. PLC
2. ILIYASU HARUNA YAMAH**

DEFENDANTS

RULING

This case is slated today for hearing. The Counsel to the Plaintiff informed the Court that unfortunately he cannot proceed with the case because he visited the registry of this Court severally asking for a ruling delivered on 25th February, 2020 but the ruling was not made available to him. Counsel to the Plaintiff, E.C Chukwu further alleged that the registry of the Court informed him that the file of the case was missing. On this ground E.C Chukwu on behalf of the Plaintiff told the Court that he cannot proceed to trial and on the basis of this he sought for an adjournment. On further probing by the Court, all the allegations made by Counsel were found to be untrue and in fact E.C Chukwu Esq lied. The registrar of the Court was summoned and he stated the correct

position which E.C Chukwu agreed as the correct position. He therefore profusely apologised to the Court for his action.

Be it as it may, the matter is for hearing. The witnesses of the Plaintiff are not in Court. The Counsel to the Plaintiff is not ready to proceed with the case and he seeks for an adjournment. The Defendants Counsel objected to the adjournment and narrated to the Court what transpired between himself and Plaintiff's Counsel. He therefore submitted that he came to Court prepared and even exhibited the questions he prepared to ask the witnesses during cross examination.

Now it is unfortunate that E.C Chukwu Esq, who filed the instant case by dragging the Defendants to this Court can lie before the Court in order to frustrate the hearing of a matter filed by him. The ruling of 25th February,2020 is a preliminary objection to challenge the competence of the suit filed by the Plaintiff's Counsel. The ruling was in favour of the Plaintiff and in fact cost of N25,000.00 was even awarded to the Plaintiff. This is the same Counsel making all sorts of allegations against the registry staff of the Court to the effect that they refused to avail him the ruling, to study and prepare for his case. The issues raised and resolved in the ruling has nothing to do with the substance of the cause of action and therefore Mr. E.C Chukwuesq, is only employing this tactics in order to avoid trial having received N25,000.00 cost from the Defendants.

In any event, from all intents and purposes, the Plaintiff and his Counsel are not desirous of prosecuting this case. And by order 32 Rule 21, Rules of this Court, it provided thus:-

"The Court may, suomotu or on application strike out any proceedings not being prosecuted diligently."

In the circumstance therefore, having avail the Plaintiff the opportunities to commence trial by calling his witnesses and he has failed, I am of the view that this case be struck out. Accordingly this instant suit is hereby struck out for want of prosecution and a cost of N200,000.00 is hereby awarded to the Defendants. The cost be paid by Counsel, Mr. E.C Chukwu. Further, payment of cost of N200,000.00 is to serve as a bar to filing any process to reactivate this suit until the Counsel to the Plaintiff purges himself of such payment.

**HON. JUSTICE D.Z. SENCHI
(PRESIDING JUDGE)
10/11/2020**