

IN THE HIGH COURT OF THE FEDERAL CAPITAL TERRITORY

IN THE ABUJA JUDICIAL DIVISION

HOLDEN AT MAITAMA

BEFORE HIS LORDSHIP: HON. JUSTICE Y. HALILU

COURT CLERKS : JANET O. ODAH & ORS

COURT NUMBER : HIGH COURT NO. 22

CASE NUMBER : SUIT NO: CV/370/19

DATE: : THURSDAY 26TH NOVEMBER, 2020

BETWEEN

GREEN LAKE INTERNATIONAL LIMITED PLAINTIFF

AND

1. THE MINISTER, FCT

**2. FEDERAL CAPITAL DEV. AUTHORITY DEFENDANTS
(F.C.D.A)**

**3. FEDERAL CAPITAL TERRITORY
ADMINISTRATION ABUJA METROPOLITAN
MANAGEMENT COUNCIL**

**4. LODIGIANI NIGERIA LIMITED } PARTY SEEKING
} TO BE JOINED**

RULING

The party sought to be joined approached this Honourable Court for the following:-

1. An Order of this Honourable Court granting leave to the Applicant Lodigiani Nigeria Limited to be joined as a party in this suit.
2. An Order of this Honourable Court joining the Applicant Lodigiani Nigeria Limited as the 4th Defendant in this Suit.
3. And for such further or other Orders as this Honourable Court may deem fit to make in the circumstances of this case.

In support of the application is an affidavit of 18 paragraph deposed to by One Mrs. Ruth Ogbole, a Counsel in the Law Firm of the Applicant.

It is the deposition of the Applicant that the party seeking to be joined was the 3rd Defendant in a similar suit involving the Plaintiffs and the 1st – 3rd Defendants in this suit vide Exhibit ‘L1’ annexed. And that the said Suit was struck out for want of diligent Prosecution. The Order striking out the suit is annexed as Exhibit ‘L2’.

That the party seeking to be joined is in possession of the said plot, the subject matter of Litigation and a beneficial owner vide Certificate of Occupancy annexed as Exhibit ‘L3’.

That the party seeking to be joined is a necessary party.

In line with law, a written address was filed wherein a sole issue was formulated to wit;

Whether having regard to the circumstances of this case and the depositions in the affidavit in support, this Court ought to join the Applicant as a party to this case.

Arguing on the above, Counsel submit that the grant or otherwise of this application is

- a. Entirely discretionary
- b. A person is joined as a party so that he may be bound by the result of the Litigation.

Learned Counsel submit that by Exhibit 'L2' which is the Order of this Court, the Applicant is indeed a necessary party to this Suit. And by virtue of fact that the Applicant is in possession of the said plot of land which is the subject matter of this Court.

N.D.I.C VS LAWAL (2007) NWLR (Pt. 1032)54 at Page 57.

Court was urged to grant the application in the overriding interest of justice.

Upon service, the Plaintiff filed a counter affidavit of 24 Paragraph deposed to by John Edwin, a Litigation Secretary in the Law Firm of the Plaintiff.

It is the counter affidavit of the Plaintiff that upon purchase of the subject matter by the Plaintiff and after possession, the Applicant (Lodigiani Nigeria Limited) approached the Plaintiff laying claim to the ownership of the said property.

That the Plaintiff/Respondent instituted a civil action against the 1st and 2nd Defendants/Respondents and the Applicant but the case was struck out.

That the 3rd Defendant/Respondent issued a Demolition Letter dated 6th November, 2019 while the matter was still pending and that on the ground of the Demolition notice that this Suit was filed.

That the crux of the Plaintiff's case against the Defendant is in respect of the Notice of Demolition.

That the Applicant is not a necessary party in this suit as not joining it, this Court can effectively, completely hear and determine this suit.

A written address was filed wherein a sole issue was formulated for determination to wit;

Whether from the facts and circumstances of this suit, this Honourable Court can exercise its discretion in granting the reliefs sought by the Applicant in this application.

Learned counsel while arguing on the above submit that Courts are free to exercise their discretion both judicially and judiciously and ensure that none of the parties suffer injustice or harm. ***SANI VS AGARA (2010)2 NWLR (Pt. 1178)37 at 460.***

Counsel submit that in an application of this nature, the main issue is whether or not the Applicant is a necessary party whose presence is necessary to enable the Court to effectively and completely adjudicate upon the Suit. And that in the instant case, the Applicant is not a necessary party. ***DAAR COM. NIG. LTD. VD V.W.D. NIG. LTD. (2012)3 NWLR (Pt. 1287) 370 at 383.***

Court was urged to dismiss this application in the interest of justice.

Court: Having regard to the circumstances of this suit, it appears to me that the question to be determined is *whether the parties sought to be joined are persons whose presence before the Court as Defendant will be necessary in order to enable the Court effectually and completely adjudicate upon and settle all the question involved in the cause or matter?*

The first point that must be made here is that joinder of persons or parties is clearly permissible under the provisions of Order 13 Rule 3(1) of the High Court of the Federal Capital Territory Abuja (Civil Procedure Rules) 2018...

However, two conditions must be established by such person(s) to qualify for the joinder. i.e,

1. Is the cause or matter liable to be defeated by the non-joinder of the third party as a Defendant?
2. Is the third party a person who ought to have been joined as a Claimant or Defendant so that he may be bound by the result of the trial or his presence before the court as a Defendant is necessary in order to enable the court effectually and completely adjudicate upon and settle all the questions involved in the cause or matter. See *AJAYI VS JOLAYEMI (2001) 10 NWLR (Pt.722) Page. 29-30, Paragraphs F-A* and *CROSS RIVER STATE NEWSPAPERS CORPORATION VS. ONI & ORS (1995) 1 NWLR (Pt. 371) Page 23 paragraphs G-C.*

The governing principle which is a cardinal rule for the administration of justice is that determination of

litigation must be in the public interest. Hence where the issues between the parties involve third parties whose interest are affected and the non-joining of the party will result in further litigation, such parties are a necessary parties. Therefore, those whose presence will be necessary for the effectual and complete adjudication of the matter before the Court, and their presence as parties is important, the Court with or without an Application, can join them as parties.

Poser: is Lodigiani Nigeria Limited seeking to be joined necessary party in this suit so much that their absence will effects the adjudication of the matter before this Court?

It is the averment of Applicants that the property in question belongs to it by virtue of Exhibit 'L3'

(Certificate Of Occupancy). And that there was litigation involving it and the Claimant herein vide Exhibit 'L1 & L2' respectively.

This assertion were never denied by the Claimant, but the grouse of the Claimant is that this present suit only borders on Demolition of the property by the current Defendant when Litigation was still pending.

It is instructive to state here that anyhow the Claimant want to view the present case, it touches on the property which the party seeking to be joined has interest on.

Having made the above observation, I shall grant this application. Same is hereby granted.

Accordingly, the following Orders are hereby made:-

1. An Order of this Honourable Court granting leave to the Applicant Lodigiani Nigeria Limited to be joined as a party in this suit **is hereby granted.**
2. An Order of this Honourable Court joining the Applicant Lodigiani Nigeria Limited as the 4th Defendant in this Suit **is hereby granted.**

Justice Y. Halilu
Hon. Judge
26th November, 2020

APPEARANCES

O.D OGUNNIYI – for the Plaintiff with I.O.
ENAGBONMA.

BETTY A. UMEGBULEM with MIMIONNE A.,
CHINENYE C., LINDA I.M., ZUBAIDA I.U. and
OLANIKE JIMOH – for the Defendants.