

**IN THE HIGH COURT OF THE FEDERAL CAPITAL TERRITORY**  
**IN THE ABUJA JUDICIAL DIVISION**  
**HOLDEN AT HIGH COURT 21 GUDU – ABUJA**  
**DELIVERED ON THURSDAY THE 30<sup>TH</sup> DAY OF SEPTEMBER, 2021**  
**BEFORE HIS LORDSHIP; HON. JUSTICE MODUPE R. OSHO-ADEBIYI**  
**SUIT NO: CV/2686/2020**  
**MOTION NO: M/1570/2021**

**BETWEEN**

1. MESSRS. UCHE OKORONKWO & ----- 1<sup>ST</sup> PAINTIFF  
OBI OKORONKWO COMPANY LTD
2. MECMERAB RESOURCES NIGERIA LTD --- 2<sup>ND</sup> PLAINTIFF/  
RESPONDENT

**AND**

**MRS. NONYE JOHN DANOR ----- DEFENDANT/RESPONDENT**

**AND**

1. UCHE OKORONKWO ----- PARTIES SEEKING TO BE
2. OBI OKORONKWO JOINED/APPLICANTS

**RULING**

By a motion on notice, amended by an order of Court, the Applicant is seeking for an order joining the Applicants and a consequential order for amendment of the processes filed. The grounds upon which the application is sought are as follows:

1. That the 1<sup>st</sup> Plaintiff has by a duly filed notice of discontinuance for a lack of aligning interests in the prosecution of the Defendant.
2. That the parties seeking to be joined UCHE OKORONKWO and OBI OKORONKWO are the rightful owners of the subject matter of this suit, the parcel of land known and described as Plot ED 22 measuring about 1.16ha lying situate at Sabon Lugbe East Layout, Abuja in their personal capacity.
3. That the parties seeking to be joined are the directors of the 1<sup>st</sup> Plaintiff in this suit who have no equitable or legal interest in the subject matter of this suit.

4. The said UCHE OKORONKWO and OBI OKORONKWO are necessary parties to this suit without whom the issues herein cannot be effectually and conclusively determined.
5. Having regard to the notice of discontinuance filed by the 1<sup>st</sup> Plaintiff in this suit and the prayer for the joinder of the said UCHE OKORONKWO and OBI OKORONKWO, a consequential order of amendment is required for all processes filed by the 2<sup>nd</sup> Plaintiff to reflect the actual and proper parties before the Court and the reliefs sought in terms of Exhibit A 13.
6. The Respondents will not be prejudiced howsoever by the grant of any of the orders sought in this application.
7. It is in the interest of justice to grant this application.

In support of the application is an 11-paragraph affidavit deposed to by Ode Aboyi, Litigation Secretary in the law firm representing the Applicants. Applicants' Counsel in their written address filed raised 2 issues for determination thus "Whether the Parties seeking to be joined/Applicants are proper, desirable and necessary parties for the effective determination of this suit" and "Whether the Applicants have shown cogent facts in the Affidavit in support of this application to enable the Court grant the prayers sought herein". Counsel relied on all the arguments stated in the written address and urged the Court to grant their application as a major ground for this application is that the Applicants are directors of 1<sup>st</sup> Plaintiff who own the land in issue thereby making them necessary parties.

The Defendant/Respondent in opposing this application, filed a counter affidavit of 10 paragraphs deposed to by Mr. Moses Erih, the Managing Director of the 2<sup>nd</sup> Plaintiff. Counsel in the written address submitted that

this application is grossly tainted, and incompetent in the light of other processes already filed in this suit. Counsel urged the Court to refuse the application as Applicants seeking to be joined are not necessary parties as they are not the alter ego of the 1<sup>st</sup> Plaintiff and ought not to be joined in this matter.

I have gone through the processes filed by both counsels. This Court had earlier given a ruling dated the 23<sup>rd</sup> of June 2021. In the said ruling, the Court had set aside its earlier order recognizing Mr. Uche Okoronkwo who issued a letter of instruction to the firm of Obla& Co as the alter ego of the 1<sup>st</sup> Plaintiff. The grounds for the ruling are as set out in the said ruling and it includes amongst others, that the firm of Barrister Obla& Co were not instructed by the rightful Mr. Uche Okoronkwo of Messrs Uche Okoronkwo& Obi Okoronkwo& Co, hence there was no evidence before the Court that the Mr. Uche Okoronkwo is the alter ego of 1<sup>st</sup> Plaintiff.

In this instant application before this Court, the same firm of Barrister Obla& Co had filed an application seeking for an order;

- a. Joining Uche Okoronkwo& Obi Okoronkwo as the 2<sup>nd</sup> and 3<sup>rd</sup> Defendants in this suit.
- b. A Consequential order amending the statement of claim and other accompanying processes in this suit to reflect the parties herein and the reliefs sought as in Exhibit A13
- c. And for such further orders as this Court may deem fit to make in the circumstances.

It is worthy to note that the exhibits relied upon in support of this application are the same documents which the Court relied upon in delivering its earlier ruling of 23<sup>rd</sup> June 2021. No new facts were introduced

in this application save for Applicants now seeking to join as defendants on the ground that Applicants are the alter ego of 1<sup>st</sup> Plaintiff. This court had earlier made a pronouncement on the 23<sup>rd</sup> of June 2021 based on an application filed by the Plaintiffs seeking to set aside the ruling/order of this Court made on 24/2/2021 recognizing Uche Okoronkwo as the 1<sup>st</sup> plaintiff in this suit. The Court had in a detailed ruling set aside the order recognizing Uche Okoronkwo as the alter ego of the 1<sup>st</sup> Plaintiff. The Court had critically looked at exhibits and processes filed by both parties before coming to a decision that the Uche Okoronkwo who instructed the firm of Barrister Obla & Co was not the right Uche Okoronkwo of 1<sup>st</sup> Plaintiff, hence, the earlier order of the Court recognizing the Applicant was incompetent and therefore a nullity based on the facts backed by exhibits presented before the Court. Interestingly, most of the exhibits and facts relied upon by the Court in arriving at the decision that Uche Okoronkwo was not the alter ego of 1<sup>st</sup> Plaintiff, were those filed by the firm of Barrister Obla & Co. This present application seeking to join the Applicants as 2<sup>nd</sup> and 3<sup>rd</sup> Defendants in this suit on the ground that they are the directors of the 1<sup>st</sup> Plaintiff is an abuse of court process more particularly as the application is supported by the same exhibits and facts which this Court had earlier considered in making a pronouncement setting aside its earlier order recognizing Mr. Uche Okoronkwo as the Uche Okoronkwo of the 1<sup>st</sup> plaintiff. The Applicants had earlier urged this court to be joined as Plaintiffs on the ground that they were directors of the 1<sup>st</sup> Plaintiff, but this Court refused. The Applicants have now brought another application using the guise of joining as Defendants on the same ground of being Directors of the 1<sup>st</sup> Plaintiff. In my view, this application constitutes an abuse of court process as the Applicants have

used a different mode of seeking to join this suit on the same ground which a pronouncement/decision had already been made by this court. This Court is functus officio as regards this application and I so hold. Consequently, the motion on notice dated 20<sup>th</sup> November 2020 is hereby struck out.

Parties: 2<sup>nd</sup> Plaintiff present.

Appearances: Charles Abulaka, Esq., appearing with V.C. Eze for 1<sup>st</sup> and 2<sup>nd</sup> Claimant. Joseph Obla, Esq., for the Applicant.

HON. JUSTICE MODUPE R. OSHO-ADEBIYI  
JUDGE  
30<sup>TH</sup> SEPTEMBER 2021