

IN THE HIGH COURT OF JUSTICE
FEDERAL CAPITAL TERRITORY OF NIGERIA
IN THE ABUJA JUDICIAL DIVISION
HOLDEN AT APO – ABUJA
ON, 14TH DAY OF OCTOBER, 2021.
BEFORE HIS LORDSHIP:- HON. JUSTICE A. O. OTALUKA.

SUIT NO.:-FCT/HC/CV/1014/17
MOTION NO.:-FCT/HC/M/4040/21

BETWEEN:

HAJIYA MARYAM MOHAMMED UMAR:.....PLAINTIFF

AND

1. ECONOMIC AND FINANCIAL CRIMES COMMISSION.	} :.....DEFENDANTS
2. MRSPHILOMENA	
3. MR FELIX AGBO	
4. INSPECTOR-GENERAL OF POLICE	
5. RANTI ANIFOWOSE	
6. S&M ESSENTIAL UNITS & COMPANY	
7. USMAN MUHAMMAD	
8. FEMI SHOLA	
9. MR. GENGA	
10. IBRAHIM LAW	

Barnabas Safa for the Plaintiff/Counter Defendant.

MusajaHaruna for the 5th Defendant/Counter Claimant.

Josiah D. Ebune for the 6th Defendant/Counter Claimant with AbimbolaOlowoseun and Sara Aure, Ore Olugbenga for 7th Defendant.

1st, 2nd, 3rd, 4th, 8th, 9th and 10th Defendants served with hearing notice but unrepresented.

Plaintiff/Counter-Claimant's Counsel:

I have an application Motion on Notice M/4040/21 before this Court, I seek the Court's permission to move.

6th Defendant/Counter-Claimant's counsel:

The Court's order for cost has not yet been complied with. The Court on last adjourned date urged the Plaintiff/Claimant to purge herself of the contempt but she has not yet done so.

Plaintiff/Counter-Claimant's Counsel:

His position is right, it is a general principle that contemnor has no right to be heard by the Court but there are exceptions to that rule, where we have a preliminary objection challenging the jurisdiction of the Court.

Defence counsel to 6th Defendant:

The submission of the counsel is most misconceived for 3 reasons. This Court cannot sit on appeal over his pending ruling/order mandating the Claimant to obey the pending orders as to cost.

Secondly, the pending ruling of this Court against which there is no appeal was given after these motions were filed. More importantly the pending motions Motion on Notice M/4039/21, Motion on Notice M/4568/21 and Motion on Notice M/4040/21 which is contending jurisdiction have no bearing with the subject matter of the ruling. This is because the ruling relates to events that occurred from the filing of the purported motions.

The authority is very clear, a party who is the Claimant and in contempt of Court's order is not entitled to audience of the Court – **Shagaba v. UBN PLC (1997) 4 NWLR (Pt.500) 481.** The Court of Appeal decision was upheld by Supreme Court in 1999 LPELR 3068 SC or (1999)7 SCNJ P.125.

The second authority **Minister FCT v. M.H. Nig Ltd (2011)9 NWLR (Pt.1252) 272-301** – A Court of Law does not make an order in vain.

Also **Okwute v. Nwadike (2009) 5 NWLR (Pt.1134) 360 @ 376.**

In the circumstance I urge the Court subject to other steps the Claimant is taking to strike out the applications of the Claimant

with very substantial cost for constituting not only an abuse of Court's process but an irresponsible affront on the integrity of the Court.

Defence counsel for 5th Defendant:

I align with the submission of the learned counsel for 6th Defendant and urge the Court to strike out all the applications of Plaintiff/Counter Claimant. I ask for an exemplary cost of N150,000.00. Earlier this matter has been adjourned for adoption of final written address. Addresses have been exchanged. At every point in time we came to adopt the final written address, the Claimant comes with irritating applications.

Defence counsel for 7th Defendant:

I align myself to counsel for 5th and 6th Defendants including the prayers to strike out all process filed by the Plaintiff/Counter Claimant, I ask for exemplary cost of N150,000.00.

Reply on Point of Law.

Plaintiff/Counter Claimant's Counsel:

I rely on the case **F.A.T.B. v. Ezegbu (1992) 9 NWLR (Pt.264) 132 @ 145**. Supreme Court laid down the exceptions, I have Motion on Notice M/4040/21. I apply that the motion be heard.

The pending motions by the Plaintiff/Counter Claimant are Motion on Notice M/4039/21, filed on 23/6/2021, Motion on Notice M/4040/21, filed on 30/6/2021 and Motion on Notice M/4568/21 filed on 14/7/21.

Ruling stood down.

RULING.

With reference to the earlier ruling of this Court on Motion on Notice M/3732/21 of 23/9/21, this Court held, I quote;

“In line with the above authorities and accordingly, this Court hereby declines to hear the Motion No. M/3732/2021, or to accord the Claimant/Applicant further right of audience until she purges herself of her contempt of the order of this Court made on 13th February, 2019, 22nd May, 2019, 26th October, 2019 and 28th October, 2019 in respect of the costs awarded.”

The matter was further adjourned to enable the Plaintiff/Counter Claimant purge herself of the contempt before today and the 14/10/2021 is set for continuation of hearing. The Plaintiff/Counter Claimant's counsel Barnabas Safa still in disregard of the order of the Court as to payment of cost awarded moved the Court to hear his application in another motion. The Defence counsel for the 6th Defendant/Counter Claimant objected to the hearing of his motion on the grounds that he has still not complied with the order of Court as to costs awarded against him. He argued and urged the Court to desist and refuse audience to the Plaintiff/Counter Claimant in respect of his motions Motion on Notice M/4039/21, Motion on Notice M/4568/21 and Motion on Notice M/40340/21 being in disrespect of the Court's order.

Learned counsel relied on these authorities **Shugaba v. UBN (Supra)**, **Minister FCT v. M.H. Nig. Ltd (Supra)**, **Okwute v. Nwadike** to submit that no further steps be allowed for the Plaintiff/Counter Claimant to take until he complies with the order of the Court. Defence counsel urged the Court to strike out all other application filed by the Plaintiff/Counter Claimant with substantial cost for constituting an abuse of Courts

process and also an irresponsible affront on the integrity of the Court being a Minister in the temple of justice.

Both Defence counsel for the 5th and 7th Defendants aligned themselves with the submission of the Defence counsel for 6th Defendant.

The contention before the Court is whether the Plaintiff/Counter Claimant upon the disobedience in complying with the order of this Court could be heard.

The Court have quoted his earlier ruling of 23/9/2021 refusing to accord/offer the Plaintiff/Counter Claimant any further right of audience.

Thus reflecting the decision of Supreme Court in **Shugaba v. U.B.N. PLC on appeal (1999) LPELR (3068) SC** it was held;

“While I agree that it is not desirable for the Court to make unbridled orders and that Court should not do anything to put a clog in the wheel of justice, orders of the Court are to be respected and obeyed. The dignity and honour of Court cannot be maintained if its orders are treated disdainfully and scornfully without due respect. Consequently noncompliance with an order of Court makes a matter or suit incompetent.

... In regard to disobedience of Court’s order, it is the law that a person who is in contempt of a subsisting order of Court is not entitled to be granted Courts discretion to enable him continue with the breach... I cannot agree more with this findings and conclusion referred to supra. Where a party has refused to implement a Court order, the Court will not give him audience. Courts do not exercise their discretionary powers to aid those who flout its orders.”

The Court of Appeal in Hon. Mins FCT v. M.H. Nig Ltd followed the decision in Shugaba v. UBN (Supra) to hold further that;

“It must be pointed out that Court of law, a superior court of record for that matter created by the fountain of laws in the country would and should not make an order in vain or just as a mere formality to be ignored by the party to whom to it was directed or the Court itself.

A party who appears before a Court has a legal duty to obey and comply with an order of that Court directed at him except he immediately exercises the right to appeal against such an order, if dissatisfied with it. But is contempt for a party who refuses, neglects, ignores or failed to comply with a competent order of a Court to still approach that Court subsequently with an application or even an objection while in disobedience of such order...”.

The law is that a party refusing to implement or comply with a competent order of a Court is not entitled to be heard while still in disobedience.

The only exception to that rule is where a party is seeking leave to appeal, or appeals against the order of which he is in contempt or where he intends to show that because of the procedural process in making the order it ought not be sustained.

Also in Okwute v. Nwadike (2009) 5 NWLR (Pt.1134) 360 @ 376 which was earlier than Hon. Minister FCT v. M.H. Nig Ltd (2011)9 NLRL (Pt.1252) 270 @ 300-301, the Court of Appeal held thus;

“... This Court made an order of cost in the sum of N2,500= against the same present applicant. It is now February, 2008 a period of one year and the applicant are yet to comply with the order. This is another clear case of deliberate refusal to comply with the rules and orders of this Court and lower court. No court can accept deliberate refuse to comply with orders and rules. In the notorious case of Gov. of Lagos State v. Ojukwu (1986) 1 NWLR (Pt.18) 621, the Supreme Court had stated that a recalcitrant litigant should not be heard in disobedience of the lower court”.

All these four authorities above are on all fours with the instant case. However, the Plaintiff/Counter Claimant relied on **F.A.T.B. v. Ezegbu (1992) 9 NWLR (Pt.264) 132** to argue that there are exceptions to the decisions of **Shugaba v. UBN (Supra)** and **Hon. Mins FCT v. M.H. Nig Ltd (supra)** and **Okwute v. Nwadike (supra)** to state that the exceptions whereby the order of the Court would not be obeyed is where the contemnor applies against the jurisdiction of the Court in question.

For clarity purposes, **F.A.T.B. v. Ezegbu (supra)** cited by the Plaintiff/Counter-Claimant is a decision of the Supreme Court where the Apex Court (Supreme Court) made it clear thus, that;

“... as long as the orders subsists and as long as the Plaintiff refused to implement them, this Court will not give them a hearing on their application in relation to the prayers objected to until such a time they purge themselves of their contempt.”

The exceptions to general rule referred to by the Plaintiff/Counter-Claimant were made in the case of **Fame**

Publication Ltd v. Ecomium Ventures Ltd (2000) FWLR (Pt.9) 1440 @ 1445, a Court of Appeal decision.

Where in the Court of Appeal cited and relied on the Supreme Court decision **F.A.T.B. v.Ezegbu (supra)**and proceeded to state that as long as Plaintiff refused to implement the order of the Court, that the Court would refuse to hear its applications until the contempt is purged.

Still the Court of Appeal in **Fame Publication Ltd v. Encomium (supra)** came to the conclusion that;

“... But what is before this Court is whether someone who has ridiculed the Court by disobeying its orders can generally be heard by the Court whilst in contempt. In the circumstances of this case as revealed above the appellant/respondent cannot be granted hearing while still in contempt of the order of the Court”.

It is obvious that the both authorities of Court of Appeal and Supreme Court relied upon by the Plaintiff/Counter-Claimant concluded that a party that ridicules a Court's order with contempt cannot be heard in any further proceedings.

It is obvious that the Plaintiff/Counter-Claimant scornfully disdainfully and with disrespect to the dignity and honour of this Court has arrogantly refused to obey the order of the Court as regards cost awarded against him in the absence of any appeal.

The Plaintiff/Counter-Claimant's counsel has a legal duty as a Minister in the temple of justice to obey the order as to cost directed on him in several rulings of this Court even before any objection he raised. The Supreme Court in **Shugaba v. UBN (Supra)** had strongly reiterated that it is contemptuous of a party

who has vehemently refused or ignored to comply with a subsisting and competent order of the Court to still APPROACH the Court with an application or even an objection such application and objection includes the following motions of the Plaintiff/Counter-Claimant, Motion on Notice M/4039/21, Motion on Notice M/4568/21 and Motion on Notice M/4040/21 while still in disobedience of the Court's orders. The law is that a party who exhibits a deliberate and flagrant refusal of the Court's order is not entitled to be heard. The said orders of this Court as to costs were made on 13/2/19, 22/5/19, 26/10/19 and 28/10/21, more than a year ago before the foreclosure of the Plaintiff/Counter-Claimant who consistently absented herself from Court upon several service of hearing notice to allow the Defence counsel counter-claimant proceed.

The Defence counsel/counter-claimants proceeded and filed their final written address before the Plaintiff woke up from slumber and reappeared in the present case to be a clog in the wheel of justice by filling frivolous applications as listed Motion on Notice M/4568/21, Motion on Notice M/4040/21 and Motion on Notice M/4039/21.

I would not exercise my discretion to aid the Plaintiff/Counter-Claimant who has deliberately flouted the orders of this Court and glaringly abused the Court's process in contempt of my orders.

I vehemently refuse to hear the contemnor until he purges himself of the contempt by complying with the orders of this Court. Accordingly my final analysis of the various applications of the Plaintiff/Counter-Claimant, I refuse to grant the Plaintiff/Counter-Claimant audience and the applications before this Court Motion on Notice M/4568/21, Motion on Notice M/4040/21 and Motion on Notice M/4039/21 are hereby

dismissed. Plaintiff/Counter-Claimant can exercise his right of appeal.

Cost of N50,000.00 awarded to 5th, 6th and 7th Defendants/Counter-Claimants respectively.

HON. JUSTICE A. O. OTALUKA
10/10/2021.

