

**IN THE HIGH COURT OF JUSTICE OF THE  
FEDERAL CAPITAL TERRITORY ABUJA  
IN THE ABUJA JUDICIAL DIVISION  
HOLDEN AT MAITAMA - ABUJA**

**BEFORE: HON. JUSTICE O. C. AGBAZA**

**COURT CLERKS: UKONU KALU & GODSPOWER EBAHOR**

**COURT NO: 6**

**SUIT NO: FCT/HC/CV/0676/2018**

**MOTION NO: M/10382/2020**

**BETWEEN:**

**JIGNA PROJECTS LTD**

(For itself as Attorney in Fact of JIGNA ECO RANCH LIMITED

.....**CLAIMANT/RESPONDENT**

**VS**

**1. HON. MINISTER FCT**

**2. FEDERAL CAPITAL TERRITORY ADMINISTRATION**

**3.FEDERAL CAPITAL DEVELOPMENT AUTHORITY**

.....**DEFENDANTS/RESPONDENTS**

**AD'OBE OBE.....INTERVENER/APPLICANT**

**RULING**

By a Motion on Notice with No. M/10382/2020 dated 2/10/2020 but filed on 5/10/2020, brought pursuant to Order 43 Rule 1 of the High Court of the FCT (Civil Procedure) Rules, Section 36 Constitution of the Federal Republic of Nigeria LFN 2004, Section 310, 311 & 312 of the companies & Allied Matters Act LFN 2004 And under the inherent jurisdiction of the Hon. Court, the Intervener/Applicant seek the court the following.

1. Leave of this Hon. Court to join Ad'Obe Obe as an Intervener in this suit.
2. And any other Order(s) as this Hon. Court may deem necessary in this circumstance.

The grounds for the application:

1. That the Intervener/Applicant is a major shareholder in the Claimant's Companies and also the Chairman of the Board of Directors of the two Companies/Claimants.
2. That this suit was filed without the knowledge of the Board of Directors, hence the consent of the Board of Directors of the Claimant Companies was never obtained before the suit was filed.
3. That this suit was filed as a vehicle to commit fraud.
4. That the outcome of decision of this Hon. Court will greatly affect the Intervener/Applicant.

In support of the application is an affidavit of 10 Paragraph sworn to by the Applicant himself with Exhibit "A" attached. Also filed a Written Address, in urging the court to grant the relief. Also filed a Further/Better Affidavit of 14 Paragraph on 22/10/2021 with Exhibit "FBA1" – "FBA6" annexed. Also filed a Written Address in support.

Responding, Claimants/Respondents on 8/9/2021 filed a Counter-affidavit of 7 Paragraph with leave of court. Annexed are Exhibits "SS1" "SS2" and "SS3". Also filed a Written Address, adopts the Address, in urging the court to dismiss the application.

The 1<sup>st</sup> – 3<sup>rd</sup> Defendant, on the other hand, and in opposition filed a Reply on points of law dated 19/7/2021, adopts same, in urging the court to dismiss the Applicant's Motion with punitive cost.

In the Written Address of Intervener/Applicant, Counsel for Intervener/Applicant Samuel .O. Zibiri (SAN) formulated three (3) issues for determination;

1. Whether or not the Applicant can be allowed to intervene in this case.
2. Whether or not this case purportedly instituted by the Claimants claiming against the Defendants issues that goes beyond the purported and an unregistered power to Attorney?
3. Whether or not this Hon. Court can determine matter before it that was fraudulently instituted.

He urged the court to grant the application.

On the other hand, Claimants/Respondents in their written submission settled by Idodo Olajide, two issues were formulated for determination namely:

1. Whether or not the Intervener/Applicant can be allowed to intervene in this case and whether this suit is competent having been instituted without the necessary consent and authorization of the Board of Directors.
2. Whether this application is an abuse of the process of court and ought not to be dismissed with punitive costs.

He urged the court to dismiss this application by the Intervener/Applicant.

In the 1<sup>st</sup> – 3<sup>rd</sup> Defendants written submission on points of law filed on 19/7/2021, F. U Ibanga of Counsel formulated two (2) issues for determination;

1. Whether the Applicant Ad'Obe Obe who is a Director, Agent and privy of the Claimants in this suit is not bound by the Ruling of this Hon. Court delivered on the 16/5/2019 dismissing the Motion on Notice filed by Jigna Eco-Ranch Ltd to be joined in this suit as an Interested Party.
2. Whether the Applicant has satisfied the legal requirement or fulfill the condition precedent to be joined in this suit as an Intervener.

Having considered the submission of Counsel, the depositions contained in the affidavit evidence as well as the authorities cited for and against the grant of this instant application, the court finds that only one (1) issue calls for determination and that is;

“Whether or not the Intervener/Applicant has made out a case to warrant the grant of the relief sought in this instant application”

The gravamen of this instant application by the Intervener/Applicant is that he is a major shareholder and Director and infact Chairman of the Board of Directors of Claimants and as Chairman of Board of Directors, he was not aware or consulted before the institution of this suit and was not part of the decision of Claimants to institute this suit. That this suit was surreptitiously instituted as a vehicle to commit fraud. That before a matter

of this nature is instituted in court, the Board of Directors must convene and come out with a Resolution granting Claimants a mandate or consent but in the instant case no mandate or consent was obtained before the institution of this suit. Further that the claims of Claimants before Court which is predicated in the purported Power of Attorney goes beyond the portion of land in the alleged Unregistered Power of Attorney and cover other larger portions of the land that was not captured in the purported and Unregistered Power of Attorney and therefore any decision of this court will affect these larger portions of land that was never captured in the purported Power of Attorney. That inspite of his protest to Defendants, they have compromised and disregarded the pendency of this suit and are bent on registering the Power of Attorney which forms part of the gravamen of the issues in contention before the court in order to perpetrate their fraudulent intentions.

The Claimants/Respondent, on the other hand contend that the decision to institute this action against Defendants was made pursuant to Irrevocable Power of Attorney dated 21/8/2015 granted to Claimants/Respondents by Jigna Eco-Ranch Ltd (JERL) of which the Intervener/Applicant is shareholder and Director. That the Power of Attorney for all intents and purposes granted 1<sup>st</sup> Claimant/Respondent the powers and right to carry out any acts or actions regarding the subject matter of this suit and power to do all such things as the Donor prior to entering into the Power of Attorney, would have had the power to do in relation to the land. Further that the decision to institute the suit was that of both Claimants/Respondent in the exercise of the power granted by the

Irrevocable Power of Attorney and this action was instituted to protect the vested interest of Claimants/Respondents and not as vehicle to commit fraud. That there is no mandatory requirement in any Agreement between the parties that a meeting should be conveyed before an action can be instituted in respect of the subject matter of the suit. That the instruction to institute this suit was issued by the MD/CEO of Claimants/Respondents Mr. Adeolu Ademola who is a member and delegate of Board of Directors of 1<sup>st</sup> Claimant and who is authorized to take step to protect the interest of the Claimants on a day to day basis. Further that the Intervener/Applicant had earlier brought same application dated 20/3/18 before this court in the name of JERL to which the court made a pronouncement on 16/5/2019. That this instant application by the Intervener/Applicant is intended to overreach the earlier decision of this court and a ploy to have the court sit on Appeal over its previous decision.

The 1<sup>st</sup>-3<sup>rd</sup> Defendants on their part contend that the Intervener/Applicant having admitted being a Director and Chairman Board of Director of Claimants is bound by the Ruling of this court delivered on 16/5/2019 dismissing the application filed by Jigna Eco-Ranch to be joined as an Interested Party in this suit. That the reason given by Applicant for seeking to be joined in this suit as an Intervener is same reason Jigna Eco-Ranch gave in its application for Joinder as an Interested Party in this suit which was dismissed by the court. That Applicant has not placed any materials or compelling evidence to show why he should be joined in this suit as an Intervener. That for Applicant to succeed, must place before court materials and credible evidence showing that he ought to have been joined

as an Intervener in the first instance in the suit as a party, his joinder necessary to enable court effectively and completely adjudicate and settle all questions involved in the matter.

The position of the law as it relates to the joining of an Intervener to a pending action whether as Plaintiff or Defendant is clear and that is whether he will be affected by the Judgment in the suit by curtailing or interfering with the enjoyment of his legal rights in the subject matter of the suit. This is because the only reason which makes it necessary to make a person a party to an action is so that he will be bound by the result of the action. See the case of Ajomagberin & Ors Vs Aregbe & Ors (2013) LPELR – 22260 (CA). See also Ige & Ors Vs Farinde & Ors (1994) 7 NWLR (PT. 354) 42 @ 60. And taking into cognizance position of the law vis-a-vis the fact as stated in the affidavit evidence before the court, the court is of the view that this ordinarily should be an occasion where Intervener/Applicant should be granted leave to join as an Intervener in this suit. However, it is correct that this court on 16/5/2019, delivered a Ruling dismissing the application for joinder of an Interested Party – Jigna Eco – Ranch Ltd, (JERL), a careful perusal of that Ruling and this instant application, the court finds the Applicant herein admitted being a Director/Shareholder. Query? Can a party who is a Director/Shareholder of a company with powers given to its M.D to carry out the day to day activities of the Company, including dealing with any Powers of Attorney, Albeit, subject of dispute, turn around to contend against that act of the Company. I think not. See Trocca Valessia Ltd & Ors Vs Sanyaolu & Ors (2016) LPELR – 40423 (CA).

On the contention by the Claimants/Respondents that the Intervener/Applicant had earlier brought same application before this court which was dismissed. In the determination of an application before a court, the court is entitled and indeed empowered to peruse its records and make use of same. See the case of PDP & Ors Vs Ezeonwuka & Anor (2017) LPELR – 42563 (SC). Indeed the court gave a considered Ruling on an application that was in respect of the suit on 16/5/2019. Granted that the earlier application of 16/5/2019 was brought by the Jigna Eco-Ranch Ltd – JERC and not the Intervener, this court has in course of the Ruling held that the Intervener/Applicant having admitted to be a Director/Shareholder in Jigna – Eco Ranch (JERL) cannot be seen to turn round to make this application, the first having been refused, and bound by it.

On the issue by the 1<sup>st</sup> – 3<sup>rd</sup> Defendant that the reason given by the Intervener/Applicant to join in this suit as an Intervener is same reason Jigna Eco – Ranch gave in its application for joinder which has been dismissed. I am in Agreement with the argument of Learned Counsel for 1<sup>st</sup> – 3<sup>rd</sup> Defendants as it accords with the position of the court stated above.

In conclusion, the application lacks merit and is hereby dismissed.

**HON. JUSTICE O. C. AGBAZA**

Presiding Judge

21/2/2022

**APPEARANCE:**



SAMUEL .O. ZIBIRI (SAN) WITH IKECHUKWU UZUEGBU – FOR THE INTERVENER/APPLICANT

E.U UWA (SAN) WITH PASCAL UKAH – FOR THE CLAIMANTS/RESPONDENTS

FELIX UDOH IBANGA – FOR THE DEFENDANTS.