

**IN THE HIGH COURT OF THE FEDERAL CAPITAL TERRITORY,  
IN THE ABUJA JUDICIAL DIVISION,  
HOLDEN AT COURT NO. 7 APO, ABUJA.  
BEFORE HIS LORDSHIP: HON. JUSTICE O. A. MUSA.**

**SUIT NO. FCT/HC/BW/CV/125/2021**

**MOTION NO. FCT/BW/M/309/2021**

**BETWEEN:**

BASHER MADAKI SANUSI ..... PLAINTIFF

**AND**

UNKNOWN PERSONS ..... DEFENDANT

**RULING**

**DELIVERED ON 8<sup>TH</sup> FEBRUARY, 2022**

This is a Motion on Notice filed by the Claimant against the Defendant in which the Claimant is praying the court for the following orders:-

1. An Order of Interlocutory Injection restraining the Defendant, their agents, officials, privies, assigns, staff, workmen, foremen or by whatever name called from taking possession of, trespassing into the developed property, changing the Structure or in any way disturbing or interfering with the property situate at House 14, 12 Crescent Gwarimpa FCT-Abuja pending the final determination of the substantive suit.

2. An Order of Interlocutory Injection restraining the Defendant/Respondent, their agents, privies, workmen or person(s) claiming through or in trust for them from building, using any form of earth moving machine, bulldozers, tractors, developing, improving, defacing, excavating or in any way infringing on the Plaintiff's right of Possession to House 14, 12 Crescent Gwarimpa FCT-Abuja pending the final determination of the substantive suit.
3. An Order of Interlocutory Injection restraining the Defendant, their agents, privies, workmen or person(s) claiming through or in trust for it/them from further occupying the said property, harassing, beating, intimidating the employees of the Plaintiff on the property in dispute pending the final determination of the substantive suit.
4. An Order of Interlocutory Injection compelling the Defendant, their agents, privies, workmen or person(s) claiming through or in trust for it/them to vacate from the said property pending the final determination of the substantive suit.
5. And for such further order(s) as the Honourable court may deem fit to make in the circumstance.

The Applicant motion is supported by an affidavit of 25 paragraphs deposed to by the Claimant himself annexed to the affidavit are 3 Exhibits. The Claimant also filed a written address as required by the rules of court.

When the matter came up on 13<sup>th</sup> October, 2021 Counsel for the Claimant adopted his written address and urged this court to grant the application.

I have carefully read the content of the Motion paper as well as the affidavit in support. The Respondent in this application was served with the processes in this case including this application by pasting pursuant to an order for substituted service granted by this court on 21<sup>st</sup> June, 2021.

The grant or otherwise of an Interlocutory Injunction is at the discretion of the court see the case of Popoola V. Babatunde (2012) 2 NWLR (Pt. 858) 504 CA.

To exercise such discretion, the court will resort to examining the facts contain in the applicant affidavit to enable it determine whether sufficient facts has been disclose to warrant the grant of the application in favour of the applicant. In the case of Kotoye V. CBN (1989) 2 S.C. (Part 1) 1 at 17. The Supreme Court set down certain parameters or principle which the court will consider in granting or refusing an application for Interlocutory Injunction. These are:-

- a. The strength of the Applicant's case
- b. The balance of convenience
- c. The Applicant must show that damages cannot be an adequate compensation for his damage if he succeeds at the end of the day.

- d. Conduct of the Parties.
- e. The applicant must show that there is a serious issue to be tried.
- f. Satisfactory undertaking as to damages, save in recognised exceptions.

It must be noted that the Respondent did not file any counter affidavit to the current application. where the Defendant was served with the Claimant affidavit but failed to file a counter to the said affidavit. It is assumed that the facts therein contained are correct and the court ought to accept it as the truth and use same in reaching its decision. The application is to restrain the act of the defendant on the land in issue. An order for an interlocutory injunction is made to restrain an act which has not been completed. I am convincing that the Claimant has made out a case looking at the facts contained in the affidavit for the grants of this application. Accordingly the Application is hereby granted.

1. The defendant, its privy, agents and workmen are hereby restrained from further trespassing into the property Situate at House 14, 12<sup>th</sup> Crescent Gwarimpa pending the determination of this suit.
2. The defendant is further restrained from building or carrying out any form of development on the land in dispute pending the determination of the substantive suit.
3. The defendant is restrained from harassing, intimidating, beating or in any way using force on the Plaintiff and his

employees on the land in dispute pending the determination of this suit.

**APPEARANCE:**

Ayodele Samuel Adepitan, Esq. with O. O. Mukinde, Esq. for the Plaintiff

The defendant is person unknown.

Sign  
Hon. Judge  
08/02/2022