

written address in accordance with the rules of this court, in reaction thereto, the defendants filed two further affidavits dated 16th June, 2021 and 6th July, 2021. They further wrote written addresses to the further affidavits.

I have carefully read all the processes filed in this case, as well as all the adopted written addresses of counsel. The question which this court is called upon to determine are straight and they are whether the defendants were served with the processes in this case and whether the Applicant in bringing this suit comply with the constitution of the 1st defendant. The superior court have in the long line of cases held that Jurisdiction is the life wire of adjudication in that where a court lacks the Jurisdiction to try a case no matter how well and sound its Judgment it will remain a nullity and liable to be set aside upon an application see the case of OLOBA Vs. AKEREJA (1988) 3 NWLR (Pt. 84) 508.

Once the Jurisdiction of a court is challenge, the court must leave everything it is doing to determine the said issue. See the case of ANYANWU Vs. OGUNNEWE (2014) 8 NWLR (Pt. 1410) 437 @ 441. In determining the Jurisdiction of the court, the courts will have recourse to the processes filed by the Plaintiff. In the instant case, the Defendants have allege that they were not served with the processes of this case. Service where required by law, of the process must be carried out in accordance with the rules of court. Where service of court process is not carried out on a party to the suit, the will lacks the Jurisdiction to entertain the case as other party would have been denied the right to fair hearing as guaranteed by section 36 of the constitution.

By the rules of this court, where service is carried out by the bailiff of court, such bailiff must file a certificate of service indicating that such service was carried out by him on the other party, in order to find out it

the bailiff of the court in this suit carried out service of the processes in this case on the defendants, this court will have to examine its file. This is because where a certificate of service is issued by a bailiff such certificate will ordinarily be pasted in the court file. The parties in this suit namely the defendants claimed no service was effected on them of the processes of court. The Applicant on the other hand insist that service was actually carried out by the bailiff of the court.

I have gone through the file of this case and I am satisfied that there is a certificate of service of the Writ of Summons, Motion on Notice and the order of court in the court file. From the said certificate which was made by one Noah Hassan, the said processes were served on the defendants on 16th March, 2021 at about 8:43am. From the said certificate the service was carried out on the defendants at CHIDA HOTEL UTAKO. There is no doubt from the processes filed that the defendants and the official of the 1st defendant were present at the said CHIDA HOTEL UTAKO on the date in issue.

Also there is confirmation of the presence of the defendants at the said Hotel as published in the daily sun Newspaper of Monday 22nd March, 2021 at page 24. In the said Newspaper, the 2nd defendant issued a press statement concerning their activities in Abuja on Tuesday 16th March, 2021. I hold therefore that there was proper service of the court processes on the defendants.

The next question to be determine is whether in bringing this suit the constitution of the 1st defendant was breach by the Applicant. If I find in the case of this ruling that the said constitution was breach in bringing this suit by the Claimant the court will automatically lose its Jurisdictional vires to entertain the suit. As I earlier said elsewhere in this ruling to

determine the Jurisdiction of the court, the processes filed by the Claimant and nothing more will be the first port of call of the court.

The Claimant, in bringing this suit had penned down seven reliefs against the defendants. Chief among this ruling is the relief as contained in paragraph (b). in the said paragraph which flows from paragraph (a), the Claimant is alleging that he was denied fair hearing by the defendants in reaching their decision. He particularly evoked section 36 of the 1999 constitution to his aid. Now the bedrock of the Preliminary Objection of the defendants is to the effect that the Claimant failed to adhere to rule 40(e) of the 1st Defendant Constitution. For purposes of clarity and emphasis, I shall reproduce the said rule 40 (e) of the 1st defendant constitution anon.

40 (e) "For the avoidance of doubt, no member, branch, chapter or unit shall employ other processes including court litigation to resolve any intra-union dispute in the association without exhausting the laid down procedure enumerated in this rule.

The said constitution did not define what intra-union dispute is. This would have aided the court in reaching its decision be that as it may, I think the draft man of the said constitution in drafting rule 40 of the said constitution intended to encourage internal settlement of dispute within the union. Section 6 (6)(b) of the 1999 constitution gave every citizen an unfettered right to access to court to determine any question affecting the 1999 constitution makes the 1999 constitution supreme and by section 1 (3) thereof any provision of any law which is inconsistency with the provision of this constitution will be void to the extent of such inconsistency. Section 36 (1) of the 1999 constitution guarantees every person the right to fair hearing in determining one's

Civil right/obligation. It is my humble view that this section of the constitution are sacrosanct and any document which touches on the right and obligation of a citizen especially where such document seeks to take away a citizen right it must conform with the constitution.

In the instant case the Defendants had urged strenuously that the constitution of the association prohibit any member from ventilating his grievances before any court of law against the union without exhausting the laid down internal mechanism of dispute resolution. And by this token the Claimant suit is incompetent. That could have been the case if the allegation of Claims before this court relate to intra-party dispute, from the processes filed by the claimant before the court, the claimant is calling upon the court to determine whether the defendants accorded him a fair hearing in accordance with section 36 of the 1999 constitution in handling his case. Looking at this I don't think that the suit of the Claimant before this court is an intra-party dispute.

I hold that the claim of the Claimant is hinged on the violation of his right to fair hearing by the defendants contrary to section 36 of the 1999 constitution. In essence the claimant is seeking the indulgence of the court to declare the action of the defendants void for being a violation of section 36 of the 1999 constitution. This court is empowered therefore by the provisions of section 6 (6) of the constitution of the Federal Republic of Nigeria 1999 as Amended to look into such claim. It is in this right that I hold that the suit of the Claimant before this court is properly constituted and does not contravene rule 40 of the constitution of the 1st defendant.

In the final analyses, I hold that this court has the Jurisdiction to entertain the Claimant's claim. the preliminary objection of the

defendants ought to fail and it is hereby fails. The Preliminary Objection is hereby refused and it is hereby dismissed.

APPEARANCE

Adamson adeboro Esq. with me Deji Aina Esq. for the Plaintiff.

Johnson O. Esezobo Esq. for the Defendants.

Sign

Hon. Judge

01/02/2022