

**IN THE HIGH COURT OF JUSTICE OF THE F.C.T.**

**IN THE ABUJA JUDICIAL DIVISION**

**HOLDEN AT KUBWA, ABUJA**

**ON FRIDAY THE 11<sup>TH</sup> DAY OF MARCH, 2022**

**BEFORE HIS LORDSHIP: HON. JUSTICE K. N. OGBONNAYA**

**JUDGE**

**SUIT NO.: FCT/HC/CV/364/21**

**BETWEEN:**

**ECHEFU CHIDIEBERE LUKE ----- } APPLICANT**

**AND**

**1. DIRECTOR GENERAL,  
STATE SECURITY SERVICE ----- } RESPONDENTS  
2. STATE SECURITY SERVICE, NIGERIA**

## **RULING ON PRELIMINARY OBJECTION**

The Applicant – Echefu Chidiebere Luke instituted this action against the Director General, State Security Service and State Security Service, Nigeria claiming the following:

- 1. A Declaration that the Respondents whilst in the execution of their duties must respect the fundamental rights of citizens and accordingly**

**abide by the provisions of Chapter 4 of the 1999 Constitution of the Federal Republic of Nigeria as amended and the provisions of the Africa Charter on Human and Peoples Rights (Ratification and Enforcement) Act.**

- 2. A Declaration that the invasion of the Applicant's house at about 3:00am on Sunday 7<sup>th</sup> November, 2021 and the arrest and illegal detention of the Applicant by the men, operatives and officers under the command/commission of the 1<sup>st</sup> & 2<sup>nd</sup> Respondents, from the 7<sup>th</sup> November, 2021 to date amounts to action that grossly violate the Applicant's Rights to dignity of human person, personal liberty, fair-hearing and freedom of movement as guaranteed under S. 34, 35, 36 and 41 of the Constitution of the Federal Republic of Nigeria 1999 as amended.**
  
- 3. A Declaration that the continued and unabated harassment and intimidation of the Applicant in detention by the men, operatives and officers under the command/commission of the 1<sup>st</sup> & 2<sup>nd</sup> Respondents amounts to torture and accordingly a gross violation the Applicant's**

**Rights to dignity of human person under S. 34 of the Constitution of the Federal Republic of Nigeria 1999 as amended.**

- 4. A Declaration that the continued illegal detention of the Applicant by the men, operatives and officers under the command/commission of the 1<sup>st</sup> & 2<sup>nd</sup> Respondents, from the 7<sup>th</sup> November, 2021 to date; without any Court arraignment, prosecution or reasonable suspicion of commission of any offence, amounts to actions that grossly violate the Applicant's Rights to dignity of human person, personal liberty, fair-hearing and freedom of movement as guaranteed under S. 34, 35, 36 and 41 of the Constitution of the Federal Republic of Nigeria 1999 as amended.**
- 5. An Order of this Court for the immediate and unconditional release of the Applicant from the Respondents' custody either in Owerri, Imo State or Abuja or any other of their custody.**
- 6. An Order of Perpetual Injunction restraining the Respondents, their authorized agents by whatever name so called, from further**

**disturbing or interfering with the Rights of the Applicant to dignity of human person, liberty and freedom of movement by any further arrest, detention, intimidation and harassment or in any way infringing on the constitutional rights of the Applicant as guaranteed by law or from making any attempt capable of violating the Applicant's Rights as guaranteed under the Constitution.**

- 7. And for such further or other Order(s) as the Court may deem fit to make in the circumstance.**

**GROUND UPON WHICH THE RELIEFS ARE SOUGHT:**

- 1. The Applicant is a Nigerian citizen who is entitled to the enjoyment of the Fundamental Rights enshrined in Chapter 4 of the 1999 Constitution of the Federal Republic of Nigeria as amended and Article 5 of the African Charter on Human and People Rights (Ratification and enforcement) Act Cap A9 Vol. 1 LFN.**
- 2. The 1999 Constitution of the Federal Republic of Nigeria as amended is the supreme law of Nigeria wherefrom government and all its agencies derive their legitimacy.**

- 3. The 2<sup>nd</sup> Respondent is a Security Agency under the control of the President of the Federal Republic of Nigeria and in the performance of their duties are to abide by Chapter 4 of the 1999 Constitution of the Federal Republic of Nigeria as amended; which guarantees the Fundamental Rights of citizen.**
  
- 4. The invasion of the Applicant's house at about 3 am on Sunday, 7<sup>th</sup> of November, 2021 and the arrest and illegal detention of the Applicant by the men, operatives and officers under the command/commission of the 1<sup>st</sup> & 2<sup>nd</sup> Respondents from the 7<sup>th</sup> of November, 2021 to date amounts to actions that grossly violate the Applicant's Rights to dignity of human person, personal liberty, fair-hearing and freedom of movement as guaranteed under Section 34, 35, 36 and 41 of the Constitution of the Federal Republic of Nigeria 1999 as amended.**
  
- 5. The Applicant's Right not to be subjected to inhuman and degrading treatment and torture/humiliation is enshrined in Section 34(1)(a) Constitution of the Federal Republic of**

**Nigeria 1999 as amended and Article 5 of the African Charter on Human and People Rights (Ratification and enforcement) Act Cap A9 Vol. 1 LFN.**

- 6. The Applicant's Right not to be subjected to restriction on his liberty and movement is guaranteed under Sections 35 and 41 of the Constitution of the Federal Republic of Nigeria 1999 as amended.**
  
- 7. Order (ii) Rule (i) of the Fundamental Rights (Enforcement Procedure) Rule 209 empowers any person who alleges that any of the Fundamental Rights to which he is entitled to is being, has been, or is likely to be infringed upon to apply to the Court for a redress.**
  
- 8. The Respondents have no jurisdiction to have subjected the Applicant to indignity, humiliation, harassment, torture, illegal detention and inhuman and degrading treatment.**

The Respondents were served.

Upon receipt of the application, they filed a Preliminary Objection urging the Court to strike out the Suit for want of jurisdiction. The Preliminary Objection was based on the ground that the infringement that happened occurred in Imo State and not in Abuja – FCT. That the Court at FCT lacks the jurisdiction to determine this case and that there are **FCT High Courts in Owerri, Imo State (sic)**.

In the Written Address they raised an Issue for determination which is:

**“Whether this Court has the power to hear and determine this case.”**

They submitted that this Court has no power to hear this case.

That the alleged infringement occurred at Ikenegbu, Owerri, Imo State and not in Abuja – FCT. They referred to **S. 46 of the 1999 Constitution of the Federal Republic of Nigeria as amended** and **Order II FREP 2009**.

That it is only in the High Court in Imo State that the Applicant can seek redress. That this Court lacks jurisdiction to determine this case. He referred to the cases of:

**Utih & 2 Ors V Onoyivwe  
(1991) LPELR – 3436 (SC)**

**Okeke V. Security and Exchange Commission & Ors  
(2003) LPELR – 20355 (CA)**

That this Court is robbed of the jurisdiction to entertain this Suit. That this Court should therefore strike out the Suit and hold that it is only the Court in Owerri, Imo State that has the jurisdiction to try the Suit.

The Applicant did not file any Counter to the Preliminary Objection but he responded on Points of Law. He submitted that any matter predicated on FREP can be heard at any High Court, not necessarily the High Court domiciled in the State where the alleged action took place. They relied on the provision of Order II Rule 1 & 2 FREP 2009.

They urged Court to dismiss the Preliminary Objection for being misleading and being misconceived.

**COURT**

It has been held in plethora of cases that any action predicated on FREP can be heard in any High Court in a State and/or in the High Court of the FCT. This means that though the action that led to infringement, breach or violation of a party's Right occurred in a State, that the affected person has a right to seek redress in the High Court of any State or FCT, outside the State where the offence complained of took place.



In this case, the Applicant had challenged his arrest and detention. He was arrested at Owerri, Imo State and was later brought to the FCIID in Abuja – FCT where he is still in detention till date without being charged to Court or released on Bail. Though he was arrested at Owerri, Imo State he has a right to bring the present action and seek redress in this Court going by the provision of Order II Rule 1 & 2 FREP 2009.

So the submission of the Defendants’ Counsel in this Preliminary Objection is hugely misconceived and grossly misleading because the action is proper before this Court and this Court has all the requisite jurisdiction and competence to entertain the Suit.

This Court holds that it has the jurisdiction to entertain the Suit. Besides, matter predicated on FREP has its peculiarities.

This application lacks merit and it is hereby DISMISSED.

**This is the Ruling of this Court.**

**Delivered today the \_\_\_\_ day of \_\_\_\_\_ 2022 by me.**

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**K.N. OGBONNAYA**

**HON. JUDGE**