

IN THE HIGH COURT OF THE FEDERAL CAPITAL TERRITORY
IN THE ABUIA JUDICIAL DIVISION
HOLDEN AT GUDU-ABUJA
ON THURSDAY THE 27TH DAY OF JANUARY 2022.
BEFORE HIS LORDSHIP: HON. JUSTICE MODUPE OSHO-ADEBIYI
SUIT NO. CV/3120/2022
M/7395/2021

BETWEEN

1. DR. ERIC OBELE
2. ISAAC OGBAH===== CLAIMANTS

AND

1. CELESTINE EZE
2. UCHE AMULU===== DEFENDANT/APPLICANT
3. LEZ GLOB RESOURCES LTD

IN THE MATTER OF APPLICATION FOR JOINDER

- i. The Nigeria Police Force
- ii. Inspector-General of Police
- iii. Isaiah Elashiku Okuba
- iv. West Egede

RULING

The Claimants filed this suit against the Defendants seeking seven (7) reliefs bordering in the allegation of Defamation. Parties filed and exchanged pleadings.

The 2nd Defendant has now filed a motion on the 1st day of November 2021 praying for the following reliefs:

1. An order of court joining the Nigeria Police Force, Inspector-General of Police, Mr. West Egede (08038078466) and Mr. Isaiah Elashiku Okuba (08038984337) both of the Force Investigation Bureau, Force Criminal

Investigation Department (FCID) Area 10, FCT-Abuja as CoDefendants to this suit.

2. And for such other order or further Orders as the Honourable Court may deem fit to make in the circumstances.

The grounds upon which the 2 Defendant is seeking the prayers are as follows:

1. That the 2nd Defendant has been repeatedly harassed by the police at the instance of the 2nd Claimant over the issues forming the gravamen of this suit.
2. That the 2nd Defendant honoured the invitation of the police and was detained on two occasions despite informing the said police that the same matter is subject of on-going proceedings in this suit, yet the police would not respect even the processes of court submitted to them after the 2nd Defendant's statements.
3. That the 2nd Defendant on 7th July, 2021 Informed this Honourable Court of his continued harassment by the police at the instance of the Claimants over the very same issues forming the gravamen of this suit, a state of facts the Claimant's lawyer, Nnaemeka Omeh, Esq., who in court denied knowledge of, and my Lord made an order expressly barring the police at the behest of whomever from taking any further steps in the issues forming the gravamen of this suit as that is a clear affront to the authority of this Honourable Court.
4. That on Applicant's next appointment to the police, the Applicant informed parties to be joined of the order of this Honourable Court against any further steps in this proceeding, but they continued to harass him even as recently as on 28th day of October 2021.

5. That it has become imperative to join the trio of the Inspector-General of Police, Isalah Elashiku Okuba and West Egede to this proceeding so that they can explain to this Honourable Court the reason for their continued, wilful, and deliberate disobedience to the order of Court made against their further investigation of a matter which complainant personally took to court.
6. That an order of this Honourable Court is required to join the Inspector General of Police, Isaiah Elashiku Okuba and West Egede to this proceeding in order to determine the issues effectively, and effectually in controversy in this suit and that they may be directly. bound by whatever orders this Honourable Court further makes against them.
7. That the justice of the case will better be served if this Honourable Court grants this application, and none of the parties will be prejudiced by the grant of this application.

Attached to the application is an affidavit of 12 paragraphs deposed to by the Applicant and upon receipt of the Claimants' counter affidavit, the Applicant filed a further affidavit of 13 paragraphs. Also filed along with the motion for joinder is a written address, wherein Counsel raised a sole issue for determination thus: - "Whether it is desirable to grant the reliefs sought by this application". Arguing the sole issue and relying on authorities which this Court has considered, Counsel urged the Court to grant the prayer sought in the application as doing so would bring the proper and necessary parties and the appropriate issues before the Court for the conclusive, effectual, and effective determination of the substantive suit.

The Claimants in opposing the application, filed a counter affidavit of 18 paragraphs deposed to by Ifeoma Eze, a litigation secretary in the law firm

representing the Claimants. Also filed is a written address. In the written address filed, the Claimants' Counsel raised a sole issue for determination, which is, "whether there abound sufficient and reliable facts before this Honourable Court to warrant the grant of this application". Counsel submitted that the Applicant has failed to provide the needed facts to sway this Court to exercise its discretion in his favour, thus this application be refused with substantial costs.

I have read and considered the Applicant's motion and accompanying documents as well as the counter affidavit and written address of the Claimants and the issue to be resolved in this case is "**whether the Applicant is entitled to the reliefs sought**".

The rules of this Court in Order 13 Rule 4 and Order 18 (3) of the High Court Civil Procedure Rules 2018, empowers the Court to join all persons as defendants in a suit against whom the right to any relief is alleged to exist or who may be entitled to or who claim some share or interest in the subject matter of the suit and likely may be affected by the result of the suit.

The Supreme court in the case of BELLO VS. INEC & ANOR (2010) 8 NWLR (Pt.1196) 342 SC, on joinder of a party held that the person to be joined must be someone whose presence is necessary and the only reason which makes him a necessary party to the action is that he should be bound by the result of the action which cannot. effectually and completely settled unless he is a party. In this instant case, as gleaned from the Applicant's affidavit, the crux of the 2nd Defendant/Applicant's application for joinder is on the alleged harassment of the police (parties sought to be joined) and failure of the parties to obey the order of this Court. The question that therefore begs to be answered at this point is whether the grounds raised by the Applicant for

joinder of the parties is enough to sway this Court to exercise its discretion in his favour.

In determining whether joinder should be granted, the Court must ask itself the following questions as espoused in the case of ANYANWOKO V. OKOYE(2010) 5 NLWR Pt. 1188 Pg.497 (SC) @519-520 para-H-B.

- I. Is the cause liable to be defeated by the non-joinder?
- II. Is it possible to adjudicate on the case or matter unless the party sought to be joined is not joined as a Defendant?
- III. Is the party sought to be joined a person whose presence before the Court as a Defendant will be necessary in order to enable the court to effectually and completely adjudicate or settle all the questions in the cause or matter?

Relying on the above principle, vis a vis the claim and counter claim before me, can the questions as raised above be answered in the negative? The Claim of the Applicant against the parties sought to be joined is solely on the alleged harassment by the said parties, which is completely distinct from the principal claim and counter claim of Defamation and the Court in the case of NSEFIK V. MUNA (2014) 2 NWLR PE1390 pg. 151 at 184 Para C-D held that a counter claim must be directly related to the principal claim but not outside and independent of the subject matter of the claim. No doubt a counter claim may be made against another party together with the Claimants, however, such claim must not be independent of the substantive suit. Notwithstanding, the said harassment is alleged to have arisen as a result of this instant case, it does not in my view warrant the parties sought to be joined be joined to the substantive suit as the claim against the parties sought to be joined is independent of the principal claim. There are options open to the Applicant against the parties sought to be joined if the constant invitation and

harassment is in breach of his fundamental right. There is a subsisting order of this Court restraining the Police from investigating the facts of the civil matter before the Court as same is currently subjudice. If Applicant feels the Police has flouted the orders of the Court, a motion for joinder is not a reprieve. An Order of this Court once flouted, comes with consequences. Consequently, the Applicant should take the necessary steps and explore options available to Applicant if Applicant feels that the police has flouted a subsisting order of this Court.

Having looked at the entirety of the claim of the Claimants and the counter claim of the 2nd Defendant, the questions raised in ANYANWOKO V. OKOYE (supra), this Court holds the considered view that the answers to the above questions point to the conclusion that the parties sought to be joined are not necessary parties to be joined as defendants in this action as neither the claimant's claim nor the 2nd Defendant's counter claim has established a claim in the substantive suit against the said parties sought to be joined.

Consequently, I find no merit in the 2nd Defendant's application as the presence of the parties sought to be joined are not necessary for effectual and complete adjudication of this case and same is accordingly refused. I make no order to cost

Parties: Parties absent.

Appearances: Elizabeth Onu, Esq., for the Claimant. J. A. Adie, Esq., appearing with Justina Lysias-Pepple, Esq., for the 1st and 3rd Defendant/Respondent.

HON. JUSTICE MODUPE R. OSHO-ADEBIYI

JUDGE

27/01/2022

