

**IN THE HIGH COURT OF THE FEDERAL CAPITAL TERRITORY**

**IN THE ABUJA JUDICIAL DIVISION**

**HOLDEN AT JABI, ABUJA**

**BEFORE HIS LORDSHIP: HON. JUSTICE MUHAMMAD S. IDRIS**

**COURT: 28**

**DATE: 21<sup>ST</sup> FEBRUARY, 2022**

**FCT/HC/M/7104/21**

**BETWEEN**

**EZEUGO IKECHUKWU FRIDAY -----**

**APPLICANT**

**AND**

**AVASTONE GLOBAL SERVICES LIMITED-----**

**RESPONDENT**

### **RULING**

The Applicant in this motion on notice no. M/1093/2022 dated and filed on the 2<sup>nd</sup> February, 2022 prays the Court for the following:-

1. An order granting leave to the Applicant to amend the name of the Applicant on the face of the motion paper dated 14<sup>th</sup> January, 2022 with motion number M/236/2022 to read Mr. Ikechukwu Ezeugo as per the final award instead of Ezeugu Ikechukwu Firday.
2. And for such or other order(s) s this Honourable Court may deem fit to make in the circumstance.

In support of this application the Applicant filed a 7 paragraph affidavit and a written address all dated the 2<sup>nd</sup> February, 2022. The affidavit relied upon by the Applicant was deposed to by one Wukatda Solomon Gotan of Compass Solicitors of Zone 5 Wuse Abuja and contains among others the following fact:-

That the Deponent is a legal practitioner in the law firm of Compass Solicitors, Counsel to the Applicant herein and by virtue of which he is familiar with the facts of this case. And Mr. Ikechukwu Ezeugo refers to one and same person

That the use of Ezeugo Ikechukwu Friday in bringing the motion on notice of M/236/2022 is a typographical error on our part and not that of the Applicant.

That the name of the Applicant was wrongly captured as Ezeugo Ikechukwus Friday on the motion paper instead of Ikechukwu Ezeugo as indicated and captured on the face of the final award.

That this application is brought for the purpose of regularizing the error on name to reflect Ikechukwu Ezeugo.

In Applicant's written address, a sole issue for determination was raised as follows:-

*"Whether the Court has the power to amend the name of the Applicant with its correct name"*

This was answered in the affirmative and also reiterated that the error was made by the Applicants Counsel and not the Applicant while preparing the motion paper.

Applicant relied on the case of ***MAERSK LINE VS ADDIDE LTD / (2002) 4 SCNJ page 433, RADIO 2 at page 455 and KATE ENTERPRISES LTD VS DAEWOO (NIGERIA) LTD (1985) 2 NWLR (pt 5) at 166*** among others.

In Court however, after Applicant's Counsel moved the motion, Respondent's Counsel objected to it, claiming that the Applicant is not the same as the party trying to amend the name and therefore cannot bring an application to begin with. He relied on the case of ***GREEN VS GREEN*** and urged the Court to dismiss the application.

In the case of ***MASERSK LINE V ADDIDE LTD (2002) 4 SCNJ page 433, ratio 2*** which the Applicant relied on, it was held that:-

*"In a case of misnomer, if application is made to amend the writ by substituting the proper names, it should be granted per Ogundare JSC"*

Also, order 25 (1) of the Federal High Court Civil procedure Rules 2018 provides that a party may amend his originating process and pleadings at any time before the pre-trial conference and not more than twice during the trial but before the close of the case. Subsection 2 further provides that an application to amend supported by an affidavit exhibiting the proposed amendment

may be made to the Court and may be allowed upon such terms as to costs or otherwise as may be just.

Furthermore, in the case of **CHIEF AJAH OJAH V CHIEF EYO OGBONI & ORS 1976 1 NWLR 95**, it was stated that an application for amended should not be granted only:-

1. Where the amendment will entail injustice to the Defendant;
2. And where the application is brought in bad faith.

See also **COPPER V SMITH 1884 24 CH'D 700 710 and 711 And EHIDIMHEN V MUSA 2000 72 LRCN 1016 at 1047.**

This application appears to be simply a misnomer, especially on the part of the Applicant's Counsel and nothing more than that. It does not appear to be brought mala fide, neither will the granting of the application entail injustice to the other party, if anything granting the amendment will only assist the Court in determining the real controversy between the parties, as the Court will move forward with the other issues in the suit.

I would also like to add the pronouncement made by the Appellate Court in the interest of justice and fair play, the Court can not shy away from doing substantial justice without any undue regards to technicalities likely the Court will not allow technicalities to prevent it from doing substantial justice see **ABUBAKAR VS YARADUA (2008) (pt. 1078)465 AMEACHI V INEC (2008) 5 NWLR (pt 1080) 227 ; A-G BENDEL STATE VS A-G FEDERATION (1982) 3 NCLR 16 and MASIT VS UNIVERSITY of AGRICULTURE MARKUDI (2005) 19 NWLR (pt 959) 211** from the content of the affidavit it

becomes imperative on this Court to grant the Applicant application. Accordingly same is hereby granted.

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**HON. JUSTICE M.S IDRIS**  
**(Presiding Judge)**  
**21/2/2022**