

IN THE HIGH COURT OF THE FEDERAL CAPITAL TERRITORY

IN THE ABUJA JUDICIAL DIVISION

HOLDEN AT JABI – ABUJA

THIS 17th DAY OF MARCH 2022

BEFORE HIS LORDSHIP HON: JUSTICE A. A. FASHOLA

SUIT NO :FCT/HC/CV/703/2021

MOTION NO. M/9307/2021

BETWEEN

GODILOGO FARMS LIMITED----- CLAIMANT/RESPONDENT

AND

TRAFIIC BAR AND RESTAURANT LT--- DEFENDANT/RESPONDENT

RULING

The ruling before this Honourable Court is predicated upon a motion on Notice dated and filed on the 17th December 2021 the motion is brought pursuant to order 13 rule 4 of the high court of the Federal Capital Territory (civil procedure) rules 2013. Wherein the applicant is praying for the following orders.

1. An Order, of this Honourable Court joining EMMANUEL OWOEYE TRADING UNDER THE NAME AND STYLE AS OWOEYE & PARTNERS as a party in this suit and as 2nd Claimant thereto.

2. An Order, granting leave to the Applicant, to amend all the processes filed by claimant, to file by the claimant, to file a joint statement of claim, reflect his interest in this suit.
3. And for such further Order or Orders as this Honourable Court may deem fit to make under any prevailing circumstance.

Attached to the application is a 10 paragraph affidavit deposed to by one Mrs Grace Adeyemi a litigation officer in the law firm of Emmanuel Esene & co, counsel to the applicant herein.

Where the applicant avers that the claimant is claiming possession of the space occupied by the defendant at plot No 551 (No 39) Gana Street Maitama. That the applicant rented the subject matter to the defendant and has been dealing with the defendant on the property. That the Applicant seeking to be joined to this suit has interest in the subject matter. That the applicant was appointed as Attorney by the claimant to manage the subject matter. That the party seeking to be joined is a Necessary party who has interest in the subject matter.

Attached to the affidavit are annexures marked as Exhibit B and C Exhibit B is a power of Attorney dated 1st day of November 2013,

while exhibit C is a letter of Authority to manage property on plot 551 (No 39) Gana street Maitama Abuja dated 1/11/2013

Accompanying the application is a written address dated and filed on the 17th December 2021, wherein learned counsel to the applicant formulated a lone issue for determination to wit:

Whether the party seeking to be joined in this proceeding has interest in the subject matter as to be a proper party in this suit?

Learned counsel to the applicant submitted that parties are enjoined to join a pending proceeding where the claim of the parties against the others arose from the same transaction: and to prevent multiplication of action arising from same transaction, and save time in the judicial process. He relied on **TANAREWA NIG LTD VS ARZAI (2005) 5 NWLR (PT.919) page 593 at 600, OGORO VS FUBARA (2003)11 NWLR (PT 831) page 231 at 235 ratio**

Learned counsel submitted that the party sought to be joined in this proceeding has an interest in the subject matter. He cited case of **BISIMILLAHI VS YAGBA-EAST L.G. (2003) 4 NWLR (PT 810) pg 329 at 333-334 ratio 1** while stating the conditions which the court would consider includes:

1. The party to be joined, does he have any legal interest in the matter under adjudication
2. The party ought to be joined originally to the action
3. The party would not stay aloof while the proceedings are on
4. The presence of the party is necessary to settle all question involved in case.
5. To enable the court bind parties with its decision.

It is the argument of applicant counsel that there are questions which cannot be effectively and completely settled without the applicant being joined as a party.

On the whole the applicant counsel contended that the interest of the party to be joined would be irreparable prejudiced if this application is refused

There is no objection or opposition to the application by the defendant.

I have perused the application for joinder and the accompanying processes by the applicant, it is my considered legal opinion that the question to be asked is:-

Whether the applicant has placed sufficient evidence before this Honourable court to be entitled to the grant of the reliefs sought?

It is trite that in determining whether to join a party to a suit or not the court ought to peruse the pleadings and the affidavit of the parties to the suit. See the case of **CHIEF OF ARMY STAFF VS LAWAL (2012) 10 NWLR P.62**

The main question for determination in an application for determination in an application for joinder as a co-plaintiff or co-defendant is whether or not the applicant in question is a necessary party, and that the court must grant the order for joinder once the presence of the person is necessary to enable the court effectually and completely adjudicate upon and settle all the question involved in the matter.

It is trite that the question to be determined in the action must be such that cannot be effectually and completely settled unless the person sought to be joined is made a party to the action. The test is whether the person to be joined will have his interest irreparable prejudiced if an order joining him is not made see the case of **IMEGWU VS ASIBELUA (2012) 4 NWLR(P.T 119) CA. ONYEKWLI V I.N.E.C (2008) 14 NWLR (PT. 1107)**

On the strength of the above cited authorities, and upon a careful perusal of the pleadings and application before this honourable which was not opposed to by the defendants. It is my considered view that the applicant is a necessary party.

1. It is hereby Ordered that EMMANUEL OWOEYE TRADING UNDER THE NAME AND STYLE AS OWOEYE & PARTNERS is added as a party in this suit and as 2nd Claimant thereto.
2. The applicant is hereby granted leave to amend all the processes filed by claimant, to file a joint statement of Claim reflecting his interest in this suit.

Appearances:

Parties absent

Johnson Ahuruonye for the Claimant/Applicant

M.I Kana for the defendant

Signed
Presiding Hon Judge
17th/03/2022