

IN THE HIGH COURT OF THE FEDERAL CAPITAL TERRITORY
IN THE ABUJA JUDICIAL DIVISION
HOLDEN AT COURT NO. 4, MAITAMA ON THE
13TH DAY OF APRIL, 2023

BEFORE HIS LORDSHIP: HON. JUSTICE U. P. KEKEMEKE

SUIT NO. FCT/HC/CV/2993/2023
MOTION NO. M/7260/2023

COURT CLERKS: *JOSEPH ISHAKU BALAMI & ORS.*

BETWEEN:

1. ARC. ABAYOMI S. AWONIYI 2. ABDULLAHI HARUNA, SAN 3. RUBEN ATABO, SAN 4. MOHAMMED KABIRU USMAN 5. ENG. MUSA WADA 6. KINGSLEY IDOKO LONA 7. GEDEON OJATA 8. DR. BOLUFEMI	}	CLAIMANTS/APPLICANTS
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AND

1. PEOPLES DEMOCRATIC PARTY 2. INDEPENDENT NATIONAL ELECTORAL COMMISSION (INEC) 3. SEN. ABDUL NINGI, CHAIRMAN 3 MAN ADHOC DELEGATES CONGRESS, KOGI STATE, 2023 4. HON. WARMAN OGORIJA, SECRETARY 3 MAN ADHOC DELEGATES CONGRESS, KOGI STATE, 2023	}	DEFENDANTS
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RULING

I have considered the submission of Learned Senior Advocate for the Claimants/Applicants. The Claimants/Applicants pray for the following reliefs:

- (1) An Order of Interim Injunction restraining the 1st Respondent either by themselves or their agents, privies, proxies, representatives or whosoever acting through them or on their behalf from accepting, dealing and using the list of delegates contained in Exhibits E - E16 in the Affidavit in support of the Originating Summons for the purpose of conducting the 1st Respondent Kogi State Governorship Primary Election scheduled for 14th April, 2023 or any other date that may be fixed by the 1st Respondent.

- (2) An Order of Interim Injunction restraining the 2nd Respondent, its agents, proxies, representatives from dealing, treating and or accepting the list of delegates contained in Exhibits E - E16 in the Affidavit in support of the Originating Summons for the purpose of supervising or monitoring the 1st Respondent Kogi State Governorship Primary Election 2023 scheduled for 14th of April, 2023 or any other date as may be fixed by the 1st Respondent.

- (3) An Interim Order directing the 1st and 2nd Respondents to receive, treat, deal and or use the list of delegates contained in Exhibits C1 - C21 in the Affidavit in support of the Originating Summons for the purpose of conducting the 1st Respondent Kogi State Governorship Primary Election slated for 14th April 2023 or any other date as may be fixed by the 1st Respondent.

- (4) An Interim Order directing or compelling the 1st Respondent to remove, delete from its record and or not to recognize or treat, deal and use the purported list of *Ad-hoc* delegates contained in Exhibits E1 - E16 in the Affidavit in support of the Originating Summons for the purpose of conducting the 1st Respondent Kogi State Governorship Primary Election schedule for 14th April 2023 or any other date.

From the reliefs and Affidavit in support, the subject matter of the suit and *a fortiori* the application is the

delegates list to be used for the PDP Governorship Election of Kogi State coming up tomorrow.

It is therefore germane for the Court to enquire into whether it has jurisdiction to dabble into the aforesaid events in Kogi State.

It is now trite law that jurisdiction is of various types and shapes. Substantive jurisdiction and territorial jurisdiction.

Substantive jurisdiction deals with matters over which the Court can adjudicate and it is overtly and expressly provided by the Constitution or statutes creating the Court while territorial jurisdiction is the territorial limit over which the Court can hold sway.

A territory is a geographic area under the jurisdiction of the Court. A Court in one State as in the Federal Capital Territory, Abuja does not have jurisdiction to hear and determine a matter which is exclusively within the jurisdiction of another State.

By our Constitution, each State of the Federation is independent. The Federal Capital Territory is treated as a State in the Federation. Each State is limited to matters arising in its territory.

This Court is different from the Federal High Court. This Court can only assume jurisdiction in matters arising in the Federal Capital Territory, Abuja.

This Court by virtue of Section 299 (a) of the 1999 Constitution is like a State High Court.

I have noticed the argument of Learned Senior Advocate for the Claimants citing the Rules of Court as being the instrument conferring jurisdiction on this Court to entertain this matter.

With respect, I disagree. Rules of Court are meant to regulate procedure. They do not confer jurisdiction. Jurisdiction is conferred by the Constitution or Statute establishing the Court.

Order 3 Rule 4 of the Rules of Court deals with this judicial divisions of the Court within the Federal Capital Territory. I am not therefore swayed by that argument.

The fact that Kogi State is contiguous to the Federal Capital Territory is not a reason why I should assume jurisdiction.

Much as I would want to expand and grab more territories to show power, I am constrained and restrained from doing so by law. Jurisdiction is not assumed, *simpliciter*. It is donated.

The delegates list prepared, drafted or which emerged from Congresses conducted in Kogi State for the purpose of the PDP Governorship Primaries in Kogi State and all incidental *furore* generated therefrom are matters within the jurisdiction of the High Court of Kogi State or the Federal High Court.

In my humble view, this Court do not have territorial jurisdiction to deal with this matter. I refer to the following cases:

OKOLO vs. U.B.N (2004) 3 NWLR (PT. 859) 87.

MAILANTARKI vs. TONGO (2018) 6 NWLR (PT. 1614) 69.

DALHATU vs. TURAKI (2003) 15 NWLR (PT. 843) 316.

EMEUKÉ vs. PDP (2012) 12 NWLR (PT. 1315) 556

INAKOJU vs. ADELEKE (2007) 4 NWLR (PT. 1025) 427.

For the totality of reasons given, the suit is accordingly dismissed.



HON. JUSTICE U. P. KEKEMEKE
(HON. JUDGE)
13/04/2023

Parties absent.

P. O. Okolo, SAN for the Claimants with me is D. Haruna,
Esq. and N. Odibeli, Esq.

COURT: Ruling delivered.

(Signed)
HON. JUDGE
13/04/2023