

**IN THE HIGH COURT OF THE FEDERAL CAPITAL TERRITORY  
IN THE ABUJA JUDICIAL DIVISION  
HOLDEN AT GWAGWALADA  
ON MONDAY THE 16<sup>TH</sup> OCTOBER, 2023**

**SUIT NOT: FCT/HC/CV/2119/2020/22  
MOTION NO: M/3055/2023/2022**

**BEFORE HER LORDSHIP: HON. JUSTICE A.I. AKOBI**

**BETWEEN**

- 1. TRADEHILL TRADING COMPANY LTD**
  - 2. NAWA PROPERTIES LIMITED**
  - 3. AEG CONSULTANTS**
- }.....CLAIMANTS

**AND**

- 1. RT. HON. NICK EWORO**
  - 2. TRADES LINK LENDING SERVICES LIMITED**
  - 3. THE MINISTER, FCT**
  - 4. FCT ADMINISTRATION**
  - 5. ABUJA METROPOLITAN COUNCIL**
  - 6. PERSONS UNKNOWN**
  - 7. CHINEDU EJIKE ANARODE**
- }.....DEFENDANTS

**AND**

- CROWN ALLIED GLOBAL REALTY**
  - & HOMES LIMITED**
- }.....PARTY SEEKING TO BE  
JOINED/APPLICANT

## **RULING**

The claimant originally brought action against five defendants and unknown persons. Subsequently, the now 7<sup>th</sup> defendant brought a motion to be joined as a 7<sup>th</sup> defendant being one of the several persons referred to in as persons unknown. The court granted the application and he became the 7<sup>th</sup> defendant. About five months later, the court received another application with motion no: M/3055/2023 for joinder. The application was heard without objection and granted on the 22/06/2023. However, in moving the application, M.B. Bature of counsel to the claimant urged the court to exercise its discretion by granting the application of party seeking to be joined in place of the 6<sup>th</sup> defendants who is unknown persons.

In view of the application of Mr. M. B. Bature urging the court to join the party seeking to be joined as the 6<sup>th</sup> defendants; I raised an observation which is that nothing on the face of the motion suggesting that the party seeking to be join should be joined as the 6<sup>th</sup> defendant, the prayer is that he be joined as a defender in the suit. That generated some argument. Counsel to the claimant admitted that the motion seeking for joinder did not make mentioned of any specific number of the defendant; however, he contended that the record of the court will show that on **25/1/22, 24/3/22 and 27/6/22**, Ejeh M. Ejeh announced his appearance for the 6<sup>th</sup> defendant (persons unknown); it is for that reason they are urging the court to joined the party seeking to be joined as the 6<sup>th</sup>

defendant as it is allowed under Order 13 rule 10 of the rules of this court.

In reaction to my observation and response to the claimant, Mr. M.A. Ejeh, of counsel to the 1<sup>st</sup> defendant as well as holding brief for MR. Ejeh Monday Ejeh of party seeking to be joined, considered it more proper for the claimant to apply to have the name of the unknown persons struck out since the application before the court had not requested that they be replaced with the 6<sup>th</sup> defendant. The counsel to the 2<sup>nd</sup> and 7<sup>th</sup> defendants aligned themselves with the submission of the 1<sup>st</sup> defendant.

Having gone through the 11 paragraphs of affidavit in support of the application deposed to by Ette Ette Enobong, a lawyer in the law firm of El Major Attorneys, of counsel to the applicant/party seeking to be joined in this suit and the five prayers on the face of the motion paper, I must say that none is requesting for the applicant's name to be replaced or substituted with the 6<sup>th</sup> defendants.

The claimant is right in his submission that this court has the power under order 13 rule 10 of the rules of this court to substitute unknown person with any defendant identified as the unknown. For clarity I reproduced the relevant rules of this court thus:

**Order 13 R.9:** where in land matters a claimant is unable to identify the person against who he claims, he may subject to the rules of this court describe such a person as a **“person unknown”**.

**R. 10:** Such a defendant under this rule may by leave of court apply for the substitution of his name as a defendant in lieu of the reference to him as a person unknown.

It is crystal clear from the above provision particularly rule 10, that it is a person who thinks he has been described in a suit as unknown to seek the leave of the court to substitute his name with that of the unknown. In the instant case, the party seeking to be joined did not ask that its name be substituted but to be made a defendant in the suit. It is not the place of the claimant by the above rule to ask for the substitution of the name as being done in this case. I am of the view that if the applicant had wanted its name to be substituted with that of the 6<sup>th</sup> defendants, he would have clearly stated it in his affidavit and the relief sought. I therefore agree with the submission of the defendants to the extent that if the claimant is no longer interested in proceeding against the 6<sup>th</sup> defendants as unknown person they should apply to have the name of the unknown persons struck out from the suit. In the light of the above, the application by the claimant to substitute the name of the party seeking to be joined with the 6 defendants is refused. I hereby in addition to the order made on the 22/06/23, ordered that Crown Allied Global Realty & Homes Limited be joined in this suit as the 8<sup>th</sup> defendant.

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**HON. JUSTICE A. I. AKOBI**  
**16/10/23**