

**IN THE HIGH COURT OF JUSTICE FEDERAL CAPITAL TERRITORY  
IN THE ABUJA JUDICIAL DIVISION  
HOLDEN AT HIGH COURT MAITAMA – ABUJA**

**BEFORE: HIS LORDSHIP HON. JUSTICE SAMIRAH UMAR BATURE**

|                      |                                   |
|----------------------|-----------------------------------|
| <b>COURT CLERKS:</b> | <b>JAMILA OMEKE &amp; ORS</b>     |
| <b>COURT NUMBER:</b> | <b>HIGH COURT NO. 32</b>          |
| <b>CASE NUMBER:</b>  | <b>SUIT NO. FCT/HC/M/10277/20</b> |
| <b>DATE:</b>         | <b>30/6/2021</b>                  |

**BETWEEN:**

MR. JACKSON UDE.....APPLICANT

**AND**

|   |                |
|---|----------------|
| 1. ATTORNEY-GENERAL OF THE FEDERATION       | } ..DEFENDANTS |
| 2. NIGERIA POLICE FORCE                     |                |
| 3. ECONOMIC AND FINANCIAL CRIMES COMMISSION |                |
| 4. STATE SECURITY SERVICE                   |                |
| 5. NIGERIA FINANCIAL INTELLIGENCE UNIT      |                |
| 6. ZENITH BANK PLC                          |                |

**APPEARANCES:**

Nnamdi V. Mba Esq for the Applicant.

Itoha Ihvabor Esq holding brief for Dr. Agada Elachi Esq for the 6<sup>th</sup> Respondent.

**JUDGMENT**

By an Originating Motion on Notice filed on the 9<sup>th</sup> day of September 2020, the Applicant herein prayed this Court for the Enforcement of his Fundamental Rights. Pursuant to an application, the matter was later placed on the Fast Track Division with Fast Track number FCT/HC/CV/88/2020.

The application is brought pursuant to Order 2 Rules 1, 2, 3, 4 and 5 of the Fundamental Rights (Enforcement Procedure) Rules 2009: Sections 36(1), 43, 44(1) and 46 of the Constitution of the Federal Republic of Nigeria 1999 (as amended).

Articles 7 and 14 of the African Charter on Human and People's Rights (Ratification and Enforcement) Act Cap A9 LFN, 2004 and under the inherent jurisdiction of the Honourable Court, wherein the Applicant sought for the following reliefs: -

- “(1). **A DECLARATION** that the freezing or placing of Post No Debit (PND) Order or any other restriction or encumbrances on the Applicant's **Zenith Bank Account: 1003309633** by the Respondents, their staff, officers, servants, agents and privies is unlawful, unconstitutional, oppressive, malicious, capricious, arbitrary and a gross violation of the Applicant's rights to fair hearing and property and therefore contrary to Sections 36(1), 43 and 44(1) Constitution of the Federal Republic of Nigeria, 1999 (as amended) and Articles 7 and 14 of the African Charter on Human and People's Rights (Ratification and Enforcement Act Cap A9 LFN, 2004).
2. **A DECLARATION** that the directive, instructions, or Order to freeze or place the Applicant's **Zenith Bank Account: 1003309633** on Post No Debit (PND) or any other restrictions or encumbrances by the Respondents, their staff, officers, servants, agents and privies is unlawful, unconstitutional, arbitrary, malicious and constitutes a gross violation of the Applicant's rights to fair hearing and property and therefore contrary to Sections 36(1), 43 and 44(1) Constitution of the Federal Republic of Nigeria, 1999 (as amended) and Articles 7 and 14 of the African Charter on Human and People's Rights (Ratification and Enforcement Act Cap A9 LFN, 2004).
3. **AN ORDER OF COURT** unfreezing, cancelling and/or lifting any Post No Debit Order, restriction or any other encumbrances placed on the Applicant's **Zenith Bank Account: 1003309633** forthwith.

4. **AN ORDER** of Injunction restraining the Respondents, whether by themselves or by their staff, officers, agents, servants, privies or howsoever described from freezing or placing Post No Debit (PND) Order or any other restrictions or encumbrances on the Applicant's **Zenith Bank Account: 1003309633**.
  
5. **AN ORDER** directing the Respondents, jointly and severally, to pay to the Applicant damages in the sum of **N100, 000, 000 (One Hundred Million Naira Only)** on the footing of exemplary, punitive and/or aggravated damages for the unlawful, oppressive and unconstitutional freezing or placing of Post No Debit (PND) Order or any other restrictions or encumbrances on the Applicant's **Zenith Bank Account: 1003309633** in violation of his rights to fair hearing and property."

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

In support of the application is a Statement pursuant to Order 11 Rule 1(3) of the FREP Rules 2009, giving the name/address and description of the Applicant.

Likewise, in support of the application is an Affidavit of 9 paragraphs deposed to by Naranna Ujemma Favour, a Litigation Secretary in the law firm of Ejiofor F. Ezea & Co, Counsel to the Applicant in this suit. An annexure marked Exhibit A, and a Written Address undated but filed on the 29<sup>th</sup> of September 2020.

In opposition to this application, the 3<sup>rd</sup> Respondent (Economic and Financial Crimes Commission) filed a Notice of Preliminary Objection along with a Counter Affidavit of 8 paragraphs deposed to by one Ufuoma Ezinea a litigation officer of the 3<sup>rd</sup> Respondent, supported by a Written Address. Both filed on 19<sup>th</sup> March 2021.

The 3<sup>rd</sup> Respondent's Preliminary Objection is predicated on the following: -

- “(i). The 3<sup>rd</sup> Respondent is not a necessary party in the Applicant’s suit.***
- (ii). The Applicants’ suit does not disclose any cause of action against the 3<sup>rd</sup> Respondent.***
- (iii). The 3<sup>rd</sup> Respondent shall at the hearing of this suit rely on the processes filed before this Honourable Court.”***

Whereof the 3<sup>rd</sup> Respondent seeks the following reliefs: -

- “(1). An Order of this Honourable Court striking out the name of the 3<sup>rd</sup> Respondent from this suit, and***
- (2). Such further Order(s) as the Court deems fit to make in the circumstances.”***

Meanwhile, on its part the 4<sup>th</sup> Respondent (State Security Service) in response to this application, also filed a Notice of Preliminary Objection along with a Counter Affidavit of 12 paragraphs deposed to by Salihu Umar, a personnel of the State Security Service attached to the Legal Department National Headquarters, Abuja.

Two distinct Written Addresses were filed in support of both the 4<sup>th</sup> Respondent’s Notice of Preliminary Objection and the Counter Affidavit in opposition to this application. All the processes of the 4<sup>th</sup> Respondent were filed on the 16<sup>th</sup> March 2021.

Grounds predicating 4<sup>th</sup> Respondent’s Objection are as follows: -

- “(1). That the 4<sup>th</sup> Respondent does not know the Applicant in this suit, neither was the Applicant’s Zenith Bank account placed on Post No Debit (PND) by the 4<sup>th</sup> Respondent at any time whatsoever.***
- (2). That the Applicant has not disclosed any reasonable cause of action against the 4<sup>th</sup> Respondent.”***

Whereof the 4<sup>th</sup> Respondent prayed this Honourable Court on the face of the Notice of Preliminary Objection for the following Orders: -

- (i). An Order striking out the name of the 4<sup>th</sup> Respondent from this suit.**
- (ii). For any such Order or further Order(s) as this Honourable Court may deem fit to make in the circumstance.”**

On the 25<sup>th</sup> of March 2021 the two Notices of Preliminary Objection were accordingly moved by respective Counsel representing the 3<sup>rd</sup> and 4<sup>th</sup> Respondents.

In response, the learned Applicant's Counsel E. F. Ezea Esq, informed the Court that they were not objecting to the two Preliminary Objections. Consequently, learned Counsel applied that the names of the 3<sup>rd</sup> and 4<sup>th</sup> Respondents be struck out.

Likewise, on the 16<sup>th</sup> day of June 2021 (upon resumption of Court sitting following the Nationwide JUSUN industrial strike action) learned Applicant's Counsel Nnamdi V. Mba Esq further applied that the name of the 1<sup>st</sup> Respondent (Attorney General of the Federation) also be struck out.

In view of this, therefore, the names of the 1<sup>st</sup>, 3<sup>rd</sup>, 4<sup>th</sup> and 5<sup>th</sup> Respondents be and are hereby struck out.

However, despite being duly served the 2nd Respondent Nigeria Police Force neither appeared nor filed any Counter Affidavit in response to this application.

On its part the 6<sup>th</sup> Respondent (Zenith Bank Plc) filed a Counter Affidavit of 17 paragraphs deposed to by Remigus Ugwu, a staff of the 6<sup>th</sup> Respondent in the Compliance Department, Exhibits marked A, B, C and D, as well as a Written Address dated 9<sup>th</sup> of March 2021. Equally filed in support is Additional Authorities dated 24<sup>th</sup> day of March, 2021 and filed same day.

Meanwhile, in response to the 6<sup>th</sup> Respondent's Counter Affidavit, the Applicant filed a Reply on points of law to the Written Address of the 6<sup>th</sup>

Respondent in support of her Counter Affidavit filed on 10<sup>th</sup> day of March 2021.

In the Applicant's written Address, a sole issue for determination was formulated by learned Applicant's Counsel to wit: -

***“Whether it is in the interest of justice to allow the reliefs sought in the present suit having regard to the material facts of this case.”***

Learned Counsel proceeded to argue same.

Likewise, in the 6<sup>th</sup> Respondent's Written Address, a sole issue for determination was also formulated by learned Respondent's Counsel to wit:

***“Whether the Applicant disclosed any cogent and credible evidence from his averments amounting to breach of his fundamental rights by the 6<sup>th</sup> Respondent?”***

Learned Counsel proceeded to argue same. Now, I have carefully considered this application, the reliefs sought, the supporting Affidavit, the Exhibits annexed as well as the Written Address filed in support. I've equally considered the 6<sup>th</sup> Respondent's Counter Affidavit, the Address filed in support, the Exhibits annexed thereto as well as the Additional authorities filed in support.

In addition, I've given due consideration to the Applicant's reply on points of law. Therefore, in my humble view, the issue for determination is whether the Applicant herein has made out a case to be entitled to the reliefs sought?

Now Section 46(1) of the Constitution of the Federal Republic of Nigeria (1999) as amended provides thus: -

***“Any person who alleges that any of the provisions of this Chapter has been, is being or is likely to be infringed in relation to him may apply to a High Court in that State for redress.”***

Therefore, applications of this nature are basically determined on the Affidavit of parties. On this premise I refer to the case of ***EBO & ANOR V***

**OKEKE & ORS (2019) LPELR – 48090 (CA)** where the Court held per Dongban-Mensem J.C.A. PP. 47 – paragraph B – D as follows: -

***“A party must place before Court facts necessary explicit adequate and sufficient to bring his case within the classes of cases in which Court may act in his favour...”***

In the Applicant’s supporting affidavit particularly paragraphs 3iv, v, vii, ix thereof it is averred thus:

***“3(iv). That the Applicant is the holder and owner of Zenith Bank Account: 1003309633 domiciled with the 6<sup>th</sup> Respondent, wherein he has some sum of money standing to his credit.***

***(v). That the Zenith bank account: 1003309633 domiciled with the 6<sup>th</sup> Respondent is the personal account of the Applicant and is continually utilized for the personal upkeep of the Applicant, maintenance of his family and several other dependents, who are now left with no alternative means of sustenance.***

***(vii). That the 2<sup>nd</sup> Respondent is the agency of the Federal Government of Nigeria charged with the detection and prevention of crime.***

***(ix). That the 6<sup>th</sup> Respondent is a financial institution registered under the Laws of the Federal Republic of Nigeria wherein the Applicant has and maintains the Zenith bank Account: 1003309633, which is the subject of this application.”***

Meanwhile, in paragraph 4, it is alleged among other things, that some Federal Government Agencies including the 2<sup>nd</sup> Respondent (the Nigeria Police Force) while misusing and abusing their positions have at various times harassed, intimidated and violated the rights of the Applicant.

That the continuous intimidations and harassment has occasioned grave damage, injustice and losses to the Applicant.

It is averred further that the Applicant has been conducting all his activities within the confines of the law and has not been charged to any Court nor found liable for any offence.

In paragraphs 4iv, - 4xiv, 14xiv, 6 and 7 and 8 it is averred as follows: -

- “4(iv). That recently, the Applicant wanted to undertake a legitimate transaction with his Zenith Bank Account: 1003309633 domiciled with the 6<sup>th</sup> Respondent, but regrettably the transaction failed or could not be consummated and the Applicant was informed that his said Bank Account has been placed on restriction by the Respondents.***
- 4(v). That the Applicant forwarded to me the electronic printout of his failed online banking transaction showing the restriction placed on his Zenith Bank Account: 1003309633 which I later printed out myself. A copy of the electronic printout of the failed online banking transaction is now attached Exhibit A.***
- 4(vi). That I personally printed out the failed electronic banking transaction receipt (Exhibit A) using my HP laptop and Laser Printer which are in good working condition and have been in continuous use for the past two years.***
- 4(vii). That the Applicant does not engage in any act of money laundering or any other offence to warrant the freezing or placing his Zenith Bank Account: 1003309633 on any form of restriction by the Respondents.***
- 4(viii). That the restriction placed on the Applicant’s Zenith Bank Account: 1003309633 is unlawful, unconstitutional and illegal as the Respondents did not follow the due process of the law.***
- 4(ix). That till date, the Applicant has not been charged or found guilty of any offence by any Court of competent jurisdiction.***



- 4(x). That the actions of the Respondents, whether already fully carried out, imminent or threatened is a gross violation of the Applicant's right to fair hearing and property as enshrined in Section 36(1), 43 and 44(1) of the Constitution of the Federal Republic of Nigeria.**
- 4(xi). That the Applicant was not heard or given any opportunity to defend himself before such unlawful and unconstitutional measures were taken against him.**
- 4(xii). That due to the unlawful actions of the Respondents, the Applicant has suffered grave and considerable damage, as he is not able to cater for himself, maintain his family or other dependents, as his bank account has been unjustly restricted by the Respondents.**
- 4(xiii). That the actions of the Respondents has also posed immense threat to the business concerns of the Applicant in respect of which he cannot be adequately compensated in monetary terms.**
- 4(xiv). That the actions of the Respondents is a deliberate plot to stifle the Applicant and prevent him from exercising his freedom of expression against some obnoxious government policies which he has been speaking against.**
- 6. That if not restrained, the Respondents have the capacity and machinery to continue to carry out their unlawful act of freezing or placing the Applicant's Bank Account on Post No Debit (PND) or any restrictions or encumbrances, thereby violating his rights.**
- 7. That time is of the immense essence in this case as the Respondents have shown manifest resolve to continue to violate the rights of the Applicant if this Court does not intervene timeously.**

**8. That there is an urgent need to allow the reliefs sought in this suit as the acts of the Respondents amounted to an illegal, unlawful and unconstitutional interference with the fundamental rights of the Applicant.”**

In the Written Address filed in support of this application, learned Counsel submitted that by their acts the 2<sup>nd</sup> and 6<sup>th</sup> Respondents have clearly breached the fundamental rights of the Applicant guaranteed and protected under Sections 36(1) 43 and 44(1) of the Constitution of the Federal Republic of Nigeria 1999 (as amended).

Moreso, that their acts culminated in the unlawful, unconstitutional, oppressive, malicious, capricious, arbitrary and gross violation of the Applicant's rights to fair hearing and property by the freezing or placing Post No Debit (PND) Order or other restrictions or encumbrances on the Applicant's Zenith Bank Account: 1003309633.

Learned Counsel referred the Court to Exhibit A annexed to the supporting Affidavit in arguing that Respondents did not follow the due process of law in placing the said account on Post No Debit (PND) or any restrictions and encumbrances. In support of his argument Counsel cited **A-G Bendel V Aideyan (1989) 4 NWLR (Pt. 118) 646m 611 – 622 per Nnaemeka – Agu, JSC** as well as Sections 36(1), 43, 44(1) of the CFRN (1999) as amended, Article 14 of the African Charter on Human and People's Rights and Section of the said Charter (supra).

In addition, it is further submitted that it is unlawful and unconstitutional for the Respondents to unilaterally freeze or place the Applicant's account of Post No Debit Order or any other restriction without affording him the opportunity of being heard. Counsel cited the cases of **SKYE BANK PLC V DAVID & ORS (2014) LPELR – 23731; FIDELITY BANK PLC V DAYAJU VENTURES LIMITED & ANOR (2012) ALL FWLR (Pt. 646) 456; ONWO v OKA & 12 ORS (1996) 6 NWLR (Pt. 456) 584, per Achike JCA (later JSC).**

On the 6<sup>th</sup> Respondent, it is submitted that it has the duty to act in utmost good faith and exercise reasonable diligence in the discharge of its duties vis-a-vis the rights of its customers, such as the Applicant, and that its act is unlawful. In support, Counsel cited **UBA V UBN PLC (1995) 7 NWLR**

**(Pt. 405) 72, 80-81 (CA); FRN & ANOR V IFEGWU (2003) 15 NWLR (Pt. 842) 113, 185, B per Uwaifo, JSC.**

Now, in the Counter Affidavit of the 6<sup>th</sup> Respondent, particularly paragraphs 5 – 16, it is averred as follows: -

- “5. That the 6<sup>th</sup> Respondent in response avers that it has not in any way breached the fundamental rights of the Applicant.**
- 6. That the 6<sup>th</sup> Respondent’s action to “Post No Debit” on the said account was based on the request of the Force Criminal Investigation Department of the Nigeria Police Force, which said account, was under investigation for criminal conspiracy, threat to intimidate, blackmail, giving false information and obtaining money by false pretence. The said letter dated 14<sup>th</sup> September 2020 is hereby attached and marked as Exhibit A.**
- 7. That the Nigeria Police Force, through the office of the Deputy Inspector General of Police, attached an Order of the Magistrate Court, Abuja ordering the 6<sup>th</sup> Respondent to place the Account of the Applicant: Jackson O. Ude Account No: 1003309633 on “Post No Debit”. The said Court Order is hereby attached and marked as Exhibit B.**
- 8. That I know that the 6<sup>th</sup> Respondent was left with no choice than to comply with the contents of Exhibit A and Exhibit B so as not to be accused of hindering the investigation of possible criminal activity by a constituted authority saddled with the responsibility of investigation of criminal and fraudulent activities.**
- 9. That experience has shown that failure to comply with the Order of Court will result in sanctions. Thus, the bank had no choice but to comply with the request to “Post No Debit” on the Applicant’s account as ordered by Court.**
- 10. That on the 30<sup>th</sup> of October 2020, the bank received another letter dated 26<sup>th</sup> October 2020 from the Nigeria Police Force**

**together with an Order from the Magistrate Court, Abuja ordering the bank to lift the “Post No Debit” earlier placed on the account: Jackson O. Ude Account No: 1003309633.**

- 11. That upon the receipt of the said letter and Court Order, the “Post No Debit” restriction earlier placed on the account of the Applicant was immediately lifted by the Bank in October, 2020.**
  
- 16. That it will be in the interest of justice to refuse the Applicant’s application.**

Based on the arguments canvassed in the Written Address, it is the submission of 6<sup>th</sup> Respondent that 2<sup>nd</sup> Respondent has the powers to investigate, arrest and detain any person who is suspected by the Police of any offence under the Police Act as provided in Section 4 of the Police Act.

According to learned Counsel, 6<sup>th</sup> Respondent complied with the Banker’s Order signed by a competent Magistrate Court in Abuja directing it to place the account of the Applicant on Post No Debit as such 6<sup>th</sup> Respondent has not breached the fundamental rights of the Applicant. That the onus is on the Applicant to prove the alleged breach.

Learned Counsel cited in support the case of **OKONKWO V EZEONU & ORS (2017) LPELR – 42785 (CA); FAJEMIROKUN V COMMERCIAL BANK (CREDIT LYOMYAIS) NIG LTD & ANOR (2009) 5 NWLR (Pt. 1135) 558 @ 600’ 605. 606; OANDO PLC V FARMATIC BIOGAS WEST AFRICA & ANOR (2018) LPELR – 45564 (CA).**

Submitted further that in this case there is no cause of action against the 6<sup>th</sup> Respondent and urged the Court to so hold.

Learned Counsel further cited the case of **AKINSETE & ORS V KILAEJO (2013) LPELR – 20215 (CA); ATTORNEY GENERAL OF THE FEDERATION V ATTORNEY GENERAL ABIA STATE & ORS (2001) LPELR – 63 (SC).**

Submitted that the 6<sup>th</sup> respondent merely obeyed the Order of Court as all Court Orders must be obeyed at all times. On this premise, learned

Counsel cited, the cases of ***SHERIFF & ANOR V PDP & ORS (2017) LPELR – 41805 (CA); GUARANTY TRUST BANK PLC V MR. AKINSIKU ADEDAMOLA & ORS (2019) 5 NWLR (Pt. 1664) 30 at 43, Paras E – F.***

Submitted moreso that no duty of care was breached by the 6<sup>th</sup> Respondent and has also not breached the Fundamental Rights of the Applicant.

Counsel urged the Court to dismiss all the claims and reliefs against the 6<sup>th</sup> Respondent.

Now, on the basis of all the arguments canvassed on both sides, let me begin by considering the Applicant's case against the 2<sup>nd</sup> Respondent (the Nigeria Police Force).

As stated earlier, 2<sup>nd</sup> Respondent despite being served has not responded nor challenged this application in any way.

Nevertheless, having considered the facts of this case, vis-a-vis the Exhibits annexed by both parties, it is clear that 2<sup>nd</sup> Respondent in furtherance of its investigations in relation to the account of the Applicant approached a Magistrate Court in Abuja and obtained a Bankers Order for said account to be placed on Post No Debit.

This is clearly seen in Exhibits A and B annexed to 6<sup>th</sup> Respondent's Counter Affidavit.

Exhibit A is addressed to the manager, Zenith Bank, Abuja, in furtherance of the investigations on allegation of Criminal Conspiracy, threat to intimidate, blackmail, giving false information and obtaining money by false pretence in which Applicant's account featured. While Exhibit B is the Banker's Order signed and dated 21<sup>st</sup> September 2020.

No doubt, by virtue of Section 4 of the Police Act Cap P.19 LFN, 2004, the Police has wide powers which include to investigate, arrest and detain persons on reasonable suspicion of having committed a crime or in connection to same.

On this, please see the case of **IKPE & ANOR V MR. EFFIONG (I.P.O) NIG POLICE FORCE (ONNA DIVISION, NDOM EYO) ONNA LGA & ORS (2014) LPELR – 23036 (CA)**.

Now, while I agree that the Applicant's right to own property is guaranteed and protected under Section 44(1) of the Constitution FRN 1999 (as amended), as well as African Charter on Human and People's Rights (Ratification and Enforcement Act), it is not absolute.

I refer to Section 44(1) of the Constitution (supra) where it provide thus:

***“No moveable property or any interest in an immoveable property shall be taken possession of compulsorily and no right over or interest in any such property shall be acquired compulsorily in any part of Nigeria except in the manner and for the purpose prescribed by a law....***

***Subsection 2(k) Relating to the temporary taking possession of property for the purpose of any examination, investigation or enquiry.”***

The Police in this case in furtherance of its investigations, obtained the Banker's Order and served same on the 6<sup>th</sup> Respondent.

Well, I must say that I've carefully considered Applicant Counsel's arguments on the Banker's Order in the Reply on points of law.

Learned Counsel did argue that the said Banker's Order Act 1847 is a non-existing law and a Magistrate cannot rely on a repealed law to issue the purportedly so called Banker's Order to freeze the account of Banker's customers.

Learned Counsel cited the cases of **MRS. EUNICE ODDIRI & 4 ORS V YOMA ESIO & 6 ORS, SUIT FHC/CS/1635/2019; C.E. OSEMENE & 5 OTHERS V GUARANTY TRUST BANK & 6 ORS** in class action Suit No: LD/1961/GCM/2017 in support of his arguments and urged the Court to consider the two decisions as persuasive being decisions of the Federal Courts one in Lagos and one in Abuja.

Well, I've taken my time to consider the above cases cited by the learned Counsel and submissions proffered in that regard.

However, it must be borne in mind that this application is an application for enforcement of fundamental rights and is not an application challenging the Order of Court, or the jurisdiction of the Court to make same. This is clear from the reliefs sought. All the allegations in this case are against among others the 2<sup>nd</sup> Respondent as well who obtained the Order and the 6<sup>th</sup> Respondent that complied with the Order.

It is therefore my considered opinion that such an objection to the validity or otherwise of the Banker's Order, ought to be raised in an application for Judicial review and not in this application. I so hold.

Coming back to the 2<sup>nd</sup> Respondent, the Court of Appeal has held in the case of ***IKPE & ANOR V MR. EFFIONG (I.P.O) NIG POLICE FORCE, ONNA DIVISION NDOM EYO, ONNA LGA & ORS (2014) LPELR – 23036 (CA), per Ojisi, J.C.A, P. 27 Para C – E*** as follows:

***“The Police are empowered to investigate any criminal allegation. They may take any action, may arrest, detain and prosecute an alleged offender. See Section 4 of the Police Act, Section 10 of the Criminal Code, Section 20 of the Criminal Procedure Act. See also Section 35(1)(C) of the 1999 Constitution of the Federal Republic of Nigeria as amended. In the legitimate discharge of their duties, they cannot be sued in Court for breach of fundamental rights...”***

Furthermore, citing Section 4 of the Police Act, the Court of Appeal held in the case of ***EZEA V STATE (2014) LPELR – 23565 (CA)*** as follows:

***“...The powers and duties of the Police are set out in Section 4 of the Police Act, it reads: -***

***“The Police shall be employed for the prevention and detection of crime, the apprehension of offenders, the preservation of law and order, the protection of life and property and the due enforcement of all laws and regulations with which they are directly charged, and shall***

***perform such military duties within or without Nigeria as may be required of them by or under the authority of this or any other Act. The duty of the Police which calls for consideration here is the duty to detect crime which involves investigation of allegations of crime...”***

Therefore in the instant case, it is my considered opinion that the 2<sup>nd</sup> Respondent was merely exercising its legitimate duties to investigate or detect crime. I so hold.

With regard to the 6<sup>th</sup> Respondent, it is trite law that a bank does not have powers to freeze or place any restrictions on an account without a valid Court Order.

On this premise, I refer to the case of ***GUARANTY TRUST BANK V MR. AKINSIKU ADEDAMOLA (2019) LPELR-47310, per Abubakar J.C.A at PP. 21-24, Para A – F***, where the Court held thus: -

***“...The Economic and Financial Crimes Commission has no powers to give direct instructions to bank to freeze the Account of a customer, without an Order of Court, so doing constitutes a flagrant disregard and violation of the rights of the customer...”***

***Our financial institutions must not be complacent and appear toothless in the face of brazen and reckless violence to the rights of their customers. Whenever there is a specific provision regulating the procedure of doing a particular act, that procedure must be followed.”***

Therefore, in the instant case, regardless of the validity or otherwise of the Banker’s Order i.e Exhibit B, the 6<sup>th</sup> Respondent clearly acted not on its own whims and caprices in placing Applicant’s account on Post No Debit (as shown in Applicant’s (Exhibit A) but by complying with Exhibit B the said Banker’s Order. Therefore, in my considered opinion, 6<sup>th</sup> Respondent acted within the ambit of the law.

I must say here that I’ve considered the position of the Applicant in that restriction was placed on his account (as shown in Exhibit A). In any event, the Post No Debit/Restriction placed on Applicant’s account has since been



lifted as shown in Exhibits C and D. Also Applicant has not shown that there's any imminent threat to further place restrictions on the said account by either the 2<sup>nd</sup> or 6<sup>th</sup> Respondents in this case.

On the whole, I find that the Applicant has failed to prove his case to be entitled to the reliefs sought.

Therefore, the sole issue for determination is hereby resolved against the Applicant in favour of the 2<sup>nd</sup> and 6<sup>th</sup> Respondents. I so hold.

Consequently, this application lacks merit and is accordingly dismissed.

***Signed:***

***Hon. Justice Samirah Umar Bature.***

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