IN THE HIGH COURT OF JUSTICE
FEDERAL CAPITAL TERRITORY OF NIGERIA
IN THE ABUJA JUDICIAL DIVISION
HOLDEN AT APO – ABUJA
ON, 6TH DAY OF JULY, 2021.
BEFORE HIS LORDSHIP:- HON. JUSTICE A. O. OTALUKA.

SUIT NO.:-FCT/HC/CV/2189/2019

BETWEEN:

KELVIN ENABULELE:……..APPLICANT

AND

1. ECONOMIC AND FINANCIAL CRIME COMMISSION.
2. PETER MBAH **:……..RESPONDENTS**
3. ZENITH BANK PLC.

ChikwereAzuwuike for the 2nd Respondent.
Sandra Ekemkea for the 3rd Respondent.
1st Respondent unrepresented.
Godwin Chukwukere for the Applicant.

JUDGMENT.

This application is brought pursuant to Order 2 Rule (1) & (2) of the Fundamental Rights (Enforcement Procedure) Rules seeking for the following reliefs:

1. A declaration that the arrest without warrant and subsequent dehumanization and detention of the Applicant from 2nd to 6th July, 2018, by operatives of the 1st Respondent, is illegal, unlawful, wrongful and constitutes a blatant violation of the Applicant's fundamental rights as enshrined in Sections 35(1), (4) & (6), 37, 41(1), 44(1) and 46(1) of the 1999 Constitution of the Federal Republic of Nigeria, as altered, Sections 1(1) (2) 30(1)(2), & 314(1) of the Administration of Criminal Justice Act, 2015, and

Articles 5, 6 &14 of the African Charter on Human and People's Rights (Ratification and Enforcement) Act Cap A9, Laws of the Federation of Nigeria 2004.

2. A declaration that the continued freezing, restricting, blocking and or placing a post-no-debit on the accounts of the Applicant without a valid order of a court from July, 2018 till date and detention of the personal properties of the Applicant, without warrant, which were seized from him at the time of his arrest, on the 2nd of July, 2018, till date, by the operatives and officials of the 1st Respondent, is illegal, wrongful, unlawful and constitutes a violent violation of the Applicant's fundamental rights as enshrined in Sections 35(1), (4) & (6), 37, 41(1), 44(1) and 46(1) of the 1999 Constitution of the Federal Republic of Nigeria, as altered, Section 1(1) (2) 30(1)(2), & 314(1) of the Administration of Criminal Justice Act, 2015, and Articles 5, 6 &14 of the African Charter on Human and People's Rights (Ratification and Enforcement) Act Cap A9, Laws of the Federation of Nigeria 2004.
3. A declaration that the continued placing of restrictions on the Applicant's operation of the said accounts from July, 2018, till date with or without an ex-parte order of a court, and without arraigning the Applicant before a court of law for any known offence, almost one year after investigation, is illegal, wrongful, unlawful and constitutes a violent violation of the Applicant's fundamental rights as enshrined in Sections 35(1), (4) & (6), 37, 41(1), 44(1) and 46(1) of the 1999 Constitution of the Federal Republic of Nigeria, as altered, Section 1(1) (2) 30(1)(2), & 314(1) of the Administration of Criminal Justice Act, 2015, and Articles 5, 6 &14 of the African Charter on Human and People's Rights (Ratification and Enforcement) Act Cap A9, Laws of the Federation of Nigeria 2004.

4. A declaration that the restrictions placed on the accounts of the Applicant by the 3rdRespondent based on the instructions given to the 3rdRespondent by the 1st Respondent without any court order to that effect, thereby denying and depriving the Applicant access to and operation of the said accounts, illegal, unconscionable, ultra vires and constitutes a breach and blatant violation of the fiduciary relationship between the Applicant and the 3rdRespondent, as well as a breach of the Applicant's right to own property as guaranteed by the constitution.
5. A declaration that the acts of the 2ndand 3rd Respondents by conniving together and invaded and printed the accounts statements of the Applicant in the custody of the 3rd, 4th and 5th Respondents without the knowledge and consent of the Applicant, is illegal, unconscionable, ultra vires and constitutes a breach and blatant violation of the fiduciary relationship between the Applicant and the 3rd, 4th and 5th Respondents, as well as a breach of the Applicant's right to own property as guaranteed by the constitution.
6. A declaration that the arrest and subsequent dehumanization and detention of the Applicant from 2nd to 6th July, 2018, by operatives of the 1st Respondent on the alleged Petition/Complaint of the 2nd Respondent, without granting him bail within 24 hours of his arrest, is illegal, wrongful, unlawful and constitutes a blatant violation of his fundamental rights as enshrined in Sections 35(1), (4) & (6), 37, 41(1), 44(1) and 46(1) of the 1999 Constitution of the Federal Republic of Nigeria,as altered, Section 1(1) (2) 30(1)(2), & 314(1) of the Administration of Criminal Justice Act, 2015, and Articles 5, 6 &14 of the African Charter on Human and People's Rights (Ratification and

Enforcement) Act Cap A9, Laws of the Federation of Nigeria 2004.

7. A declaration that the continued confiscation and continued detention of the personal properties of the Applicant, without warrant which were seized from him at the time of his arrest, on 2nd July, 2018, till date, by operatives and officers of the 1st Respondent, on the frivolous Petition/Complaint of the 2nd Respondent,is illegal, wrongful, unlawful and constitutes a violent violation of the Applicant's fundamental rights as enshrined in Sections36(5), 37, 44(1) of the 1999 Constitution of the Federal Republic of Nigeria,as altered, (CFRN), Section 1(1) (2),& 314(1) of the Administration of Criminal Justice Act, 2015 (ACJA), and Articles 6 &14 of the African Charter on Human and People's Rights (Ratification and Enforcement) Act Cap A9, Laws of the Federation of Nigeria 2004.
8. A declaration that the demand by operatives of the 1st Respondent on the Applicant, to continue to make frequent and periodic appearances and visit to the office of the 1st Respondent here in Abuja without arraigning him before a court of law, for any known offence, almost one year after investigation, on the frivolous Petition/Complaint of the 2nd Respondent, of offences alleged against him, is illegal, wrongful, unlawful and constitutes a blatant violation of his fundamental rights as enshrined in Sections 35(1), (4) &36(5), and 41(1) of the 1999 Constitution of the Federal Republic of Nigeria,as altered, Section 1(1) (2), 30(1)(2) of the Administration of Criminal Justice Act, 2015, and Articles 6 and 12 of the African Charter on Human and People's Rights (Ratification and Enforcement) Act Cap A9, Laws of the Federation of Nigeria 2004.

9. A declaration that the Applicant is entitled to a public apology and adequate compensation from the Respondents as provided for by Sections 35(6)and 46(1) of the 1999 Constitution of the Federal Republic of Nigeria,as altered, Sections314(1) and 323(1)(2) of the Administration of Criminal Justice Act, 2015, for the blatant violation of the Applicant's fundamental rights without following the due process of law.
10. An Order of this Honourable Court directing the 1st, 3rd and 4th Respondents whether by themselves, servants, agents, operatives, detectives, investigating officer(s) and privies, howsoever to remove the post-no-debit order and any other restrictions on the accounts of the Applicant and make operational forthwith, the accounts of the Applicant in respect thereof.
11. An Order of perpetual injunction restraining the 1st Respondent whether by itself, its agents, employees, operatives, detectives, investigating officer(s), or by whatever name called, from further inviting, arresting or detaining the Applicant on the frivolous Petition/Complaint of the 2nd Respondent.
12. An Order of this Honourable Court directing the 1st, Respondent to release forthwith to the Applicant, his personal properties i.e. handsets phones with SIM cards, which were seized from him without warrant, at the time of his arrest, by operatives of the 1st Respondent, on the 2nd of July, 2018.
13. An Order of this Honourable Court directing the Respondents to tender a public apology and pay adequate compensation to the Applicant for the blatant violation of the Applicant's fundamental rights without following due process of law.

14. An Order that Respondents jointly and severally pay to the Applicant the sum of N500,000,000.00 (Five Hundred Million Naira) only as exemplary damages for the wanton and grave violation of the Applicant's fundamental rights.
15. And for such further or other orders as the Honourable Court may deem fit to make in the circumstance.

Supported by statement of facts of 15 grounds and 55 paragraph affidavit dated and filed on 17th June, 2019.The summary of the affidavit evidence of the Applicant reveals that the Applicant and the 2nd Respondent were business partners while the 3rd Respondent is the Applicant bank.

That on 2nd July, 2018, the Applicant was arrested while at work and detained till 6th July, 2018. That upon his release, he was ordered to be reporting at 1st Respondent's office.At Abuja every two weeks, from 27th July, 2018.

That the Applicant had at various times approached his bank, 3rd Respondent to withdraw funds but was refused. That the 2nd Respondent inconspiracy with the 3rd Respondent blocked his account, placed a "Post No Debit" on his account and without the consent of the Applicant preferred his account details.

That the Applicant was continually harassed and intimidated.

That the unending invitation by the 1st Respondent to their office to make statements was an infringement on his right.

That upon inquiry, he discovered that 1st Respondent had no Court order backing up the freezing of his account. That Applicant through his counsel Blessing Eyee, Esq., wrote the 3rd Respondent to defreeze the Account. See Exh B.

That as a result of the freezing of his account, he was rendered impecunious, suffered embarrassment, penury, mental agony, public odium, wide spread derision and psychological torture as the Applicant cannot fend for his wife, children and dependants. That Applicant has incurred huge debts.

That the Applicant was made to go through the test of Polygram(a lie detecting machine). That it is almost one year that the Applicant has not been charged before any Court.

In paragraph 45 of the affidavit in support, the Applicant averred relying on Section 34 Economic and Financial Crime Commission Act that the 1st Respondent had no powers to place a "Post No Debit" on his account or freeze his account (Section 38) Economic and Financial Crime Commission Act.

That the 3rdand 4th Respondents had no powers to freeze his account without a Court order. Applicant's paragraph 46-52 referred to the documents affecting the records of transactions with Pinnacle Oil and Gas Ltd. Applicant had no written address attached.

In response to the Applicant's affidavit in support, the 1st Respondent filed a 32 paragraph counter affidavit deposed to by Mustapha Sulaiman filed on 25th October, 2019.He averred that the receipt of the petition on 16th April, 2018 from Pinnacle Oil and Gas Ltd (Exh EFCC1), that 1st Respondent investigated the case of criminal conspiracy and money laundering, 1st Defendant on investigation put across calls to the Applicant and other suspects. In the absence of any response, that the 1st Respondent traced the Applicant and other suspects to Warri Delta State for their apprehension.

That on 5th July, 2018, that the Applicant was arrested and taken to their Benin office where he made statement and was

released on bail same day. The bail bond is marked Exh EFCC 2^{A}& 2^{B}. That the Applicant was on bail till May 2019 when a charge was preferred against him – FHC/WR/44C/2019. A copy of the charge is Exh EFCC3. That the Applicant and 4 others were served with the charge and arraigned at Federal High Court, Benin on 28th June, 2019 and 1st July, 2019. That on arraignment, that the Federal High Court could not take their bail application and the Court remanded them in prison custody till September, 2019 after the Court's annual vacation.

That on 5th July, 2019, the Applicant and others withdrew their bail application and filed a fresh application on 9th July, 2019 at Federal High Court, Port Harcourt before the vacation Court.ExhEFCC4^{A}&4^{B}marked the Notice of withdrawal and motion,the Court could not take the application for bail as the Court pointed out to the Respondent's counsel that the application did not relate to the charge for which the Applicant was arraigned at Warri.The matter was further adjourned to 1st August, 2019. That the Applicant was granted bail with the conditions established in paragraph 17 of the 1st Respondent counter affidavit. That on application by the 1st Respondent, the bail condition was varied.

In further response to the 55 paragraph affidavit, the 1st Respondent stated and denied paragraphs 4, 13, 15, 16, 17, 18, 20,21, 22, 24, 25, 26, 28, 29, 30, 36, 42, 43 and 53 and averred that by ExhEFCC3 the charge, that the Applicant is standing criminal trial. That contrary to paragraph 13 of affidavit in support, that the Applicant was not prevented from making calls. That contrary to paragraph 15, the Applicant and others were arrested by operative at Warri on 5th July, 2018 by 1pm arrived at Benin by 3pm, their statement taken and were released two hours later.

The 1st Respondent denied humiliating the Applicant. That upon conclusion of investigation, that the Applicant and others were charged for money laundering -FHC/WR/44C/2019. That the 1st Respondent was not further detained nor threatened after 5th July, 2019. Nor was the Applicant asked to report at Abuja as the Applicant was remanded by the Court having failed to fulfil the bail conditions of the Federal High Court, Port Harcourt.

Contrary to paragraph 24 that the 1st Respondent never denied the Applicant the use of any of his valuable property (handset).

That contrary toparagraphs 32, 34, 36, 38, 43, 44, 45 and 53, that the 1st Respondent letter to 3rd Respondent positing no debit and its response lasted for 72 hours and there was no need for the 1st Respondent to apply for Court order for freezing order.

The 1st Respondent attached a written address in support of his counter affidavit and raised a sole issue of ***"whether the applicant has made out a case against the 1st Respondent to enable this court grant the reliefs being sought?"***

In arguing this issue learned counsel made reference to Section 6(b)(h), 7(1), 2(f) 8(5) and 41 ofEconomic and Financial Crime Commission (Establishment) Act, 2004.

The 1st Respondent argued pursuant to the above law that the Applicant was invited to enable him respond to the allegations but he failed to present himself, thus resulting to arresting the Applicant upon reasonable suspicion. Further, the learned counsel argued that the Applicant was arrested and was granted bail ExhEFCC3. That none of the right of the Applicant was violated because when charged that the Applicant was granted bail by the Court but was remanded in prison custody because he could not fulfil his bail conditions. Learned counsel

relied on the case of **Fawehinmi v. I.G.P. (2007) 7 NWLR (Pt 665) 481.**

On the allegation that the Applicant was threatened, the learned counsel submitted that in the absence of any proof of such and that there is no evidence to support the allegation, learned urged the Court to dismiss it.Reference made to Section 131 and 132 Evidence Act, 2011.

Learned counsel relied on the authority of **Chairman, EFCC v. David Littlechild&anor (2015) LPELR 25199 (CA)** held;

> ***"Affidavitevidence which are clearly and bare allegations and/or conclusions but not supported with facts and documents needed to establish them are omissions which are fatal to any application orassertion before the Court. Thus, where cases are tried upon affidavit evidence, the facts or depositions in such affidavits haveto be proven like averments inpleadings. See GENERAL & AVIATION SERVICES LTD V.ASTRA BUILDERS (WA) LTD (2010) 2-3 SC (PART1) 60."***

Learned counsel urged the Court to refuse award of damages in the absence of any proof. He placed reliance on the case of **Dike v. A.G. & Commissioner for Justice Imo State &Ors (2021) LPELR 15383 CA.**

In conclusion, Learned counsel submitted that in the absence of any evidence led to prove violation of Applicant's fundamental right, in accordance with the Constitution, that the Applicant is not entitled to any compensation because his allegations cannot be justified.

On the issue of (Post No Debit) of the Applicant's account, learned counsel relied on Section 6(5)(b) of the Money Laundering (Prohibition) Act, 2011 as amended which states;

> ***"(5) "Notwithstanding the provisions of paragraph (a) of this subsection, the Chairman of Economic and Financial Crimes Commission or his authorised representative shall place a <u>Stop Order not exceeding 72 hours,</u> on any account or transaction if it is discovered in the course of their duties that such account or transaction is suspected to be involved in any crime".*** (Underline mine for emphasis)

3.10 Subsection of the Act provides:

> ***"(7) "Where it is not possible to ascertain the origin of the funds within the period of stoppage of transaction, the Federal HighCourt may, at the request of the Commission or other persons or authority duly authorised in that behalf, order that the funds, accounts or securities referred to in the report be blocked".***

The learned counsel further argued that the Post No Debit (P.N.D.) did not exceed 72 hours by law and that the 1st Respondent had no need to apply to the Court for an interim forfeiture of the account for investigation as the investigation on the Applicant's account was concluded within 72 hours as required by the law.

Learned counsel urged the Court in conclusion to hold that the facts placed by the Applicant are misplaced, untrue and speculative but only deserve dismissal.

In further affidavit of the Applicant in reply to the 1st Respondent's counter affidavit, the deponent from the

chambers of the Chief Mike Ozekhome (SAN) UsmanSalihu averred in response to paragraph 8, 9 & 10 of 1st Respondent counter affidavit that the 1st Respondent was arrested without warrant which was not denied.That the paragraph 20, 21, 22, 23, 24, 25, 26, 27, 28, 29 & 30 of 1st Respondent counter affidavit in opposition are false misled, and erroneous.

That the 1st Respondent had no powers to 'Post No Debit' order on account of the Applicant without Court's order. That the 3rd Respondent blocked the account of the Applicant before the charge was preferred. This causing the Applicant series of hardship and financial quagmire.

Learned counsel for Applicant responded to the 1stRespondent written address and raised alone issue to wit:

> ***"Whether from the facts and circumstances of this case, the 1st Respondentwas right to have issued a 'Post No Debit' order to the 3rd Respondent to block the Applicant's account without Court order?"***

The Applicant's legal argument was that the 1st Respondent failed to obtain an Ex parte order before freezing the account of the Applicant. Reference was made to the case of **Guarantee Truct Bank v. Adedamola (2019) 5 NWLR (Pt 1664)** held,

> ***"Even if the Applicant was alleged to have committed a criminal offence, the EFCC cannot on its own, direct the Bank to direct the bank to place a restriction on accounts of the bank without orders of court. The law allows the EFCC to come to court even with an exparte application to obtain an order freezing the account of the suspect that has lodgements suspected to be proceeds of crime. No law imposes a***

unilateral power on the EFCC to deal with the applicant this way".

The Court went ahead to say thus:

"Again guarantee Trust Bank has no obligation to act on EFCC instruction or directives without an order of Court".

The learned counsel submitted that the unilateral freezing of the applicant's account was an act of bias and desire to misuse or pervert justice. That since the investigation has been completed in 2018 and Applicant arraigned in 2019, that the 1st Respondent is still holding the account of the Applicant on forfeiture without a Court order. Relying on **FRN v. Ifegwu (2003) 15 NWLR 133 @ 216,** the learned counsel urged the Court to hold the Respondents liable to a breach of the fundamental rights of the Applicant.

In response to this application, the 2nd Respondent Peter Mbah through AmanyiOcholaOchoyo swore to a 14 paragraph affidavit dated and filed on 15th March, 2020. He admitted writing a petition to 1st Respondent in April, 2018 complaining about theft of N135,000,000.00 from his Petroleum product. He put the Applicant to the strictest in proof of paragraphs 12-18, 21-26, 28-45 and 53. He denied paragraphs 20, 27,31,48, 51, 52 and put the Applicant to the strictest proof. It is averred by the deponent that the Applicant worked for the 2ndRespondent.

In his written address, the 2ndRespondent raised a lone issue;

"Whether from the facts and circumstances of this case the mere complaint of the 2nd Respondent amounts to breach of Applicant's fundamental rights?"

In answer to the above question, the learned counsel relied on Section 38(1)Economic and Financial Crime Commission Act, 2004 which empowers the Economic and Financial Crime Commissionto receive information from any person, authority or company and that the 2nd Respondent acted within the ambit of the law by lodging a complaint against the Applicant. That mere complaint to the Economic and Financial Crime Commission does not amount to breach of fundamental rights of the Applicant in reference to **Diamond Bnak PLC v.Opara (2018) 7 NWLR (1617) p. 97.**

Learned counsel submitted that the petition to the 1st Respondent did not reveal any malice or bias against the Applicant. Learned counsel urged the Court to hold that the complaint did not amount to a breach of the fundamental rights of the Applicant.

In response, to the application before this Court, the 3rd Respondent in a 20 paragraph counter affidavit deposed to by one RemigusUgwu averred that paragraphs 1-36, 38-53 were not within their scope of knowledge to reply to the facts and are therefore denied.

In paragraphs 5-19 that the 3rd Defendant was served with a letter dated 19th July, 2019 from 1st Respondent, Exh 2B1 demanding the 3rd Respondent to 'Post NoDebit' on the account of Applicant which was being investigated. That the said account is a business account and not a personal account. The Bank statement account are exhibited as Exh 2B2. That the instructions of the 1stRespondents were carried out.That the 3rd Respondent was not privy to any business dealings which the Applicant has with 2ndRespondent. Neither was the 3rd Respondent privy with the investigation by the 1st Respondent.

That the 3rd Respondent did not connive or conspire with 2nd Respondent to invade or print out any customers account. The 3rd Respondent further stated that the accounts for which 'Post No Debit' was posted has no nexus with the Applicant being a company account bearing the name'Kenosa Oil & Gas Ltd' and not a personal account. That paragraph 8/9 of the counter affidavit averred that the account for which the Applicant seeks enforcement of fundamental rights are companies accountsExhZB2 and ZB3 therefore, have no nexus with the Applicant assets for which the declaratory orders are being sought.That the 3rd Respondent carried out the instruction of the 1st Respondent by reason of ExhZB1.

In the 3rd Respondent written address in support of his counter affidavit, learned counsel raised two issues for determination.

1) Whether the main relief and the ancillary reliefs are so closely connected to be heard under fundamental Enforcement Procedure Rules.
2) Whether the acts of the 3rd Respondent in complying with the lawful directives of the 1st Respondent amounts to infringement of the fundamental rights of the Applicant who is not the account holder of the accounts the subject matter.

In arguing issue one, learned counsel submitted that in respect to the accounts which form the basis of Applicant's action, that the accounts belong to companies who isthemselves are capable of suing for their claims they may have against the Respondent. The 3rd Respondent argued that the Applicant cannot usurp the personality of the company. Learned counsel contended that the Fundamental Right Enforcement Procedure being Sui Generis, that ancillary or residual claims pertaining to monies as claimed in reliefs 2,3,4& 5 of the application have no

ties to the Applicant for which the Applicant has no locus standi to proceed against on behalf of the companies by way of enforcement of fundamental rights. He relied on **Igwe v. Ezeanochie (2009) LPELR – 11895 (CA).**

> ***"Whenever the court is confronted with an application brought under theFundamental Right (Enforcement Procedure) Rules, it is imperative that the court should critically examine the reliefs sought by the Applicant, the grounds for seeking the reliefs and the facts contained in the statement accompanying the application and relied on for the reliefs sought."***

Learned counsel submitted that the claims of the Applicant in his main prayer against his unlawful arrest/detention is not connected to the monies.

That it took the applicant 12 months from the date of release to bring an action for the enforcement of his fundamental right.

In issue two, learned counsel submitted that the 3rd respondent adherence to the directive of the 1st respondent as to the 'Post No Debit' is as not an infringement to the applicant's right.

Learned counsel relied on Section 34 and Section 38(1) & (2) Economic and Financial Crimes Commission Act andExhZB1 to submit that the 3rd respondent was in obedience to an existing law. Learned counsel urged the Court to resolve the issues in favour of the 3rd Respondent.

In furtherance, the applicant in reply to 3rd respondent counter affidavit filed a 5 paragraph further affidavit, with a reply on point of law.

The Applicant in paragraph 5 (c),(d),(e),(f),(g),(h) averred that the applicant is the Managing Director/Chief Executive of the Kenosa Oil & Gas Ltd and also a signatory to the account.

That the 3rd respondent has no powers to issue, a 'Post No Debit' order without a court order.

In reply on point of law, the applicant raised one issue.

> ***"Whether from the facts and circumstances of this case the mere issuance of 'Post No Debit' order empowers the 3rd respondent to block the applicant's account without the order of court?"***

Learned counsel argued that the 3rd respondent had no right to block the applicant's account. That the 3rd respondent has a duty of care to protect his customers. He placed reliance on the authority of **Guarantee Trust Bank v. Ademola (2019) 5 NWLR (Pt 1664)**held;

> ***"Again Guarantee Trust Bank has no obligation to act on EFCC instruction or directives without an order of court".***

Learned counsel submitted that the unilateral decision of 3rd respondent to freeze account of applicant without court's order is act of malice. He further stated that the applicant account is still blocked without any court order. He urged the Court to grant the applicant judgment. Sequel to the applicant's affidavit in support of this motion, the counter affidavits of the respondents, further affidavit of the applicant and replies on issues of law.

The questions for consideration are:

1) Whether the main relief and the ancillary reliefs are together enforceable.

2) Whether the 1st respondent had the powers to 'Post No Debit' on the Applicant's account without order of the court.
3) Whether the applicant proved the breach of his fundamental rights.

In considering issue one, the applicant in paragraphs 47-53 of his affidavit in support, elaborated that he is the Managing Director of Kenosa Oil & Gas Ltd and also represents Pinnacle Oil & Gas Ltd in NUPENG meetings but never worked with Pinnacle Oil & Gas or 2nd respondent. He averred in paragraph 48 that he purchases products from Pinnacle Oil & Gas owned by the 2nd respondent and receives commission from the 2nd respondent. The rest of paragraphs 49-52 reveal the business transactions reflecting purchases and payments on petroleum products.

He claimed there are documents exhibiting his contractual transactions between him and the Pinnacle Oil & Gas Ltd and 2nd respondent showing payments made by customers from June 2006 – July 2018, including commissions paid to him.

These contractual issues raised in conjunction with the reliefs sought on breach of fundamental rights are not connected to be determined under the Fundamental Right (Enforcement Procedure) Rules. The Fundamental Rights (Enforcement Procedure) Rules are peculiar rules restricted to the enforcement of special rights under chapter 4 of the 1999 Constitution. Fundamental Right under the chapter 4 of the 1999 Constitution cannot be used to institute an action for enforcement of a right that has not been specifically enlisted in chapter 4. See **Hassan v. EFCC (2014) 1 NWLR (Pt 1389) 607 CA.**

Applicant must be within the confine of issues founded on breaches of Fundamental Right which were enacted to correct perceived breaches of one's rights. It is noteworthy that an action can only be commenced pursuant to the Fundamental Rights (Enforcement Procedure) Rules where the claim borders on the enforcement of the rights specifically provided under chapter 4 of the 1999 Constitution.

It is my finding that paragraphs 47-52 border on clear contractual obligations and not breach of Fundamental Rights. Thus the claim under these paragraphs are not sustainable under Fundamental Rights (Enforcement Procedure) Rules.Paragraph 47-52 are therefore discountenanced.

Issue two, on **whether the 1st Respondent, Economic and Financial Crimes Commission (EFCC) had powers to 'Post No Debit' on account of the applicant?**

The applicant in paragraphs 8, 26, 34, 37, 38 of his affidavit averred that his account is domiciled in 3rd respondent's bank. The said accounts were listed in schedule I,Exh 'A' and referredto in paragraphs 26 and 37 of the affidavitin support. The Account Numbers referred to in Exh 'A' are:-

> ***"1014650528 and 1014693840.***
>
> ***Paragraph 38 referred to the letter written by one Blessing AyeeEsq., a senior counsel representing the chambers of Chief Mike Ozekhome (SAN). The letter is dated 20th February, 2019 and captioned Demand for Immediate Defreezing and/or unblocking the following Account numbers and Account names Domiciled with the following banks as specified in the schedule attached to this letter".***

I have critically gone through the processes filed by the applicant alongside the claim and have not seen a schedule attached disclosing any account number and names together of the account holders.

The scheduleExh ‘A’ bears account numbers 1014650528 and 1014693840 of Zenith bank only,without account names linked to them.

However, applicant attached Exh ‘C’ Zenith Bank statement of account in respect of a company account of 1014693840 referred to ‘Kenosa Oil & Gas Ltd’showing an opening period of 01/01/2016 to 31/12/18.

This account does not bear the name of the applicant “Kelvin Enabulele”.

I have again criticallyX-rayed this Exh ‘C’ and to my chagrin discovered that the said account of which the applicant claimed was forthe period of 01/01/2016 to 31/12/2018,what was only exhibited was for the period of 2/6/2016 to 13/12/2017 of 47 pages recorded on pages 40-47 of the Court’s file contrary to the averments and argument of the applicant’s counsel.The same account had been in active operative use till 13/12/17.

By relief 2 of the claim, the applicant claimed that his account was restricted and blocked by the placing of a ***“‘Post No Debit’ without a valid court order from July 2018 till the filing of this suit…”***

The Exh ‘C’ representing the Applicant’s account on its face showed 01/01/2016 – 31/12/18 on the contrary, while the opening balance of what the Applicant filed is from 01/01/2016 to 13/12/2017.

There is no evidence of the existence of an account statement of the applicant in 2018 upon which “Post No debit” was made neither did the letter from Chief Mike Ozekhome (SAN) chambers dated 20th February, 2019 link the applicant to the alleged accounts referred to.

The 3rd respondent refuted paragraph 26 of the affidavit in support making reference to Exh ‘A’, argued that the said accounts belong to companies and not the applicant. The 3rd respondent attachedExhZB2 representing ‘Kenosa Oil & Gas Ltd’ accounts from the period of 1st July, 2018 to 4th October, 2019, inclusive of the period when this matter was filed on 17th June, 2019 into the trial period.I have observed and found out that this account has been in active use contrary to the claim of the applicant in paragraph 26, which states;

> ***“That I know as a fact that the 3rd Respondent declined to allow the applicant access to his accounts on ground that the numbers as listed in schedule I and domiciled with the 3rd respondent have been blocked or restricted, on the authority of the 1st respondent and that no further withdrawals from the accounts would be allowed”.***(Underlining mine)

Critically examining ExhZB2 account of ‘Kenosa Oil & Gas Ltd’ claimed by the applicant to be his account, same account showed busy transactions all through, particularly on the following dates 5th April, 2019, 8th April, 2019, 15th April, 2019, 23rd April, 2019, 2nd May, 2019, 6th May, 2019.The Kenosa Oil & Gas Ltd account was debited in favour of the applicant Enabulele Kelvin of various sums of money. In paragraph 5(f) of the Applicant’s further affidavit in reply to 3rd respondent’s counter affidavit to the applicant’s motion on notice filed on 9th October, 2019, the Applicant claimed that he is a signatory to

the said account of Kenosa Oil & Gas Ltd. It means there are other signatories to the said account.

Also in paragraph 53 of the affidavit in support, the applicant averred that;

> ***"That the 1st respondent has neglected, ignored and or refused to unblock or unfreeze the applicant's account nor arraigned him in Court".***

I came to the conclusion from the documentary evidence in respect of 'Kenosa Oil & Gas Ltd' which the applicant claimed is his accountthat the said account was in constant use by the applicant up till 4th October, 2019.In fact, the Applicant has been credited till 2017. The period ending 2017 is outside the period of the alleged breach.In search of justice as to whether there was any breach by placing a 'Post No Debit', I fell back on Exhibit ZB2 attached to the 3rd respondent's counter affidavit to originating motion which has an opening period from 01/07/2018 – 04/10/2019, supposedly the period of the alleged breach.

In respect of account 1014650528, the applicant filed no account details to his interest.The said account represents 'Pinnacle Unit PTD Branch of NUPENG' as expressed in ExhZB3. The Applicant in paragraph 48 of his affidavit averred that he only represents Pinnacle Oil & Gas Ltd. which belongs to 2nd Respondent. Clearly 'Pinnacle Oil & Gas Ltd' is not same as 'Pinnacle Unit PTD Branch of NUPENG'. The Applicant has failed to explain the nexus/connection between him and the said account which bears the name "Pinnacle Unit PTD Branch of NUPENG"(see ExhZB1 and ZB3).There is no bank account linking Pinnacle Oil & Gas Ltd. However the Applicant received funds from the account of 'Pinnacle Unit PTD Branch of NUPENG'.

The letter of 1st Respondent to 3rd Respondent Exh ZB1 made reference to the personal account of the applicant**"Kelvin Enabulele 200806600"**but the statement of the personal account of the applicant was not exhibited. I observed that all through the gamut of the affidavit evidence before this Court no evidence was led to establish that there was a 'Post No Debit' on the personalaccount of the applicant Kelvin Enabulele.

The 3rdRespondent in paragraph 8 of counter affidavit and paragraph 3.1.2 of his counsel's written address questioned the legal personality of the 'Kenosa Oil & Gas Ltd', the next question that follows is **whether the 'Kenosa Oil & Gas Ltd' belongs to the applicant and whether the applicant can usurp the legal personality of 'Kenosa Oil & Gas Ltd'?**. I am informed by the averment of the applicant that he is signatory to'Kenosa Oil & Gas Ltd'.

In considering the first leg of this question, the authority cited by the 3rd respondent goes to answer the question that a company being an artificial person cannot maintain an action of violation of fundamental rights because companies are not humans and cannot be arrested and detained –**FBN PLC v. A.G. Federation (2018) 7 NWLR (PT 1617)121.**

Once a company is incorporated under the law, it becomes a separate entity from the directors who are its members. It can sue and be sued as it enjoys legal rights and subject to legal duties which are separate from its members.

It is instructive to note that the onus is on the party who claims the ownership of such company to establish such by production of the certificate of registration of the company and its directors–**G&T Invest. Ltd v. Witt & Bush Ltd (2011) 8 NWLR (Pt 1250) 500.**

To establish who the directors of a company are,production of Corporate Affairs Commission (CAC)certificate of registration and its directors is required to determine the competence and nature of the company. In the instant case the applicant failed to produce the company certificate and documents to prove his legal capacity as the owner or director and or account owner of the Kenosa Oil & Gas Ltd.

I am therefore, in doubt as to whether the said Kenosa Oil & Gas Ltd actually belongs to the applicant. It is trite that the courts cannot be left in speculative sphere on legal issues. The court cannot speculate or conjective in any case, it must be guided by credible evidence –**Muoghalu&anor v. Muoghalu (2019) LPELR 47257(CA).**

Assuming without conceding, that Kenosa Oil & Gas Ltd belongs to the Applicant, based on that, the Applicant had challenged the legality of the 1st respondent in connivance with 3rd respondent to place a 'Post No Debit' (P.N.D) on the Kenosa Oil & Gas Ltd account No. 10014693840. The 1st and 3rd Respondents relied on Section 38(1) of the Economic and Financial Crimes Commission (Establishment) Act 2004, and Section 21 of the Money Laundering (Prohibition) Act, 2011 as amended which provides thus;

Section 38;

> ***"Power to receive information without hindrance, etc***
>
> ***(i) The commission shall seek and receive information from any person, authority, corporation or company without let or hindrance in respect of offences it is empowered to enforce under this Act.***

Section 38(2) of the EFCC Act equally provides that:

"2. A person who

(a) Wilfully obstructs the Commission or authorised officer of the Commission in the exercise of any of the powers conferred on the Commission by this At; or

(b) Fails to comply with any lawful enquiry or requirements made by an authorised officer in accordance with the provisions of this Act.

Commits an offence under this Act and is liable to conviction to imprisonment for a term not exceeding five (5) years or to a fine not below the sum of N500,000.00 (Five Hundred Thousand Naira) or both such imprisonment and fine."

Section 21 of the Money Laundering (Prohibition) Act 2011 merely gave powers to the commission to obtain records from financial institutes.

Section 6 of Money Laundering (Prohibition) Act, 2011 provides for special surveillance on certain transactions under Section 6(1) to wit:

"Whether a transaction

(a) Involves a frequency which is unjustifiable or unreasonable;

(b) Is surrounded by conditions of usual or unjustified complexity;

(c) Appears to have no economic justification or lawful …"

Subsection (3) further provides that

> ***"The provisions of Section 1 & 2 of this Section shall apply whether the transaction is completed or not.***
>
> ***(5)(a) The acknowledge of receipt shall be sent to the financial institute or designated non-financial institution with the time allowed for the transaction…***
>
> ***(5)(b)Notwithstanding the provisions of paragraph (a) of this section, the Chairman of the Commission the governor of the Central Bank or their authorised representative shall place a stop order not exceeding 72 hours on any account transaction if it is discovered in the course of their duties, that such accounts or transactions is suspected to be involved in any crime".***

The 1st Respondent heavily relied on the provisions of Section 6 of the Money Laundering (prohibition) Act for the action they took in placing on 'Post No Debit' on Kenosa Oil & Gas Ltd account.

Section 6 of the Act to my mind clearly highlighted in the preamble the type of transactions that would attract a 'Post No debit', isreferred to as Special Surveillance which involves frequency in unjustifiable and unreasonable transactions (account) surrounded by an unusual complexity which appears to have no economic justification. The 1st respondent had not established these issues existing in the Kenosa Oil & Gas Ltd account.

I am of the strong opinion that Kenosa Oil & Gas Ltd account does not fall within Section 6 of the Money Laundering Act (Prohibition) Act 2011. Therefore, Section 6(5)b of the same Act which empowers the Commission with powers to 'Post No

Debit' for 72 hours is inapplicable in the instant case. I therefore,discountenance the argument of the 1st respondent that it has powers to place 'Post No Debit' on accounts without a court order. The 1st respondent in the instant case can only rely on Section 34(1) of the Economic and Financial Crimes Commission Act which authorises the Commission or any other officer with the word 'MAY'to decide whether or not to freeze an account.If satisfied that money in the said account of a person is made through the commission of an offence under the Act obtain an exparte order from the court to issue a 'Post No Debit' on accounts of any person.

I placereliance on the plethora of authorities which mandates the EFCC to obtain exparte order before placing a 'Post No Debit' on any individuals account. Placing reliance on**EFCC v. Global Formwork Nigeria (2020) LPELR 51697 (CA),** held per Kolawole, JCA;

> ***"… The said directive issued by the appellant without the court order, was ultravires the powers of the appellant in the light of the provisions of Section 6&7 and 34(1) of the EFCC Act (supra) which lead judgment cited because such brazen act is illegal and void. See GTB v. Adedamola (2019)5 NWLR (Pt. 1664) 301".***

On whether EFCC has powers to give direct instructions to a bank to freeze the account of customer without a court's order in**Bose Olagunju v. EFCC (2019) LPELR 48461 (CA)**the court held;

> ***"… my firm view is that the only interpretation that can be extended to the provisions of Section 34(1) of the EFCC Act is that when the respondent is investigating a crime, its chairman may decide***

whether there is need to freeze account involved. This is clearly the discretion of the chairman. When he however decides to freeze such account, he must obtain a court order before doing so. A court order is therefore a condition precedent for the exercise of the respondent's power to freeze account pursuant to the provision of Section 34(1) of the EFCC Act.

The respondent must obtain a court order before taking such a step….In the very recent case of<u>GTB v. Adedamola (2019)5 NWLR (Pt. 1664) p.30@43,</u>my learned brother of this court Abubakar JCA held as follows: Before freezing customers account or placing any form of restrain on any bank account, the bank must be satisfied that there is an order of court."

The above authorities of the Court of Appeal nail the issue. In addition, the enforcing authority to wit;Economic and Financial Crime Commission(EFCC) on receipt of the Ex parte order has a legal duty to serve the order on the bank involved alongside any letter of 'Post No Debit'in respect of any account. However, the banks are no longer allowed to play ignorance of the law. In the absence of any such order the banks are precluded from acting on any instruction to place 'Post No Debit' on any customers account. The 3rd respondent therefore, has no right to freeze the account of Kenosa Oil & Gas Ltd even if it is for 72 hours without a court order. Irrespective of failure of the Applicant to prove that Kenosa Oil & Gas Ltd account belongs to him,it is my finding and I hold that the 1st Respondent acted <u>ultra vires</u>of its powers by placing a 'Post No Debit' on Kenosa Oil & Gas Ltd without a Court order.

On whether the 1st respondent has a right to arrest the applicant at the instance of the 2nd respondent. The

applicant's counsel argued that the applicant was arrested and restrained for 3 days contrary to the powers of the 1st respondent. Learned counsel further argued that the applicant was arrested without a warrant contrary to the provision of the Constitution. I have meticulously studied the Constitution and the laws empowering the 1st Respondent to arrest.

Section 35(1) reflects thus:

(1) ***"Every person shall be entitled to his personal liberty and no person shall be deprived of such liberty save in the following cases and in accordance with a procedure permitted by law.***
1(c) For the purposes of bringing him before a court in execution of order of a court or upon reasonable suspicion of his having committed a criminal offence or to such extent as may be reasonably necessary to prevent his committing a criminal offence."

Further Section 41 of the EFCC Act provides:

> ***"Subject to the provision of this Act, an officer of the commission when investigating or prosecuting a case under this Act, shall have all the powers and immunities of a police officer under the police Act and any other law conferring power to the police, or empowering and protecting law enforcement agencies."***

Several authorities including the case of **Sunday Aizeboje v. EFCC (2017) LPELR 42894 (CA),** per Nimpar, JCA held,

> ***"The respondent has the undisputable power to investigate, arrest and detain any person who is suspected of the commission of any offence under***

EFCC Act.Generally the commission has all the powers of the police as bestowed by Section 41 of the EFCC Act. It is common knowledge that the police have general power of arrest and when properly exercised on a reasonable suspicion of one having committed an offence it cannot ground a complaint".

The above case is on all fours with the instant case. The Applicant was arrested on reasonable suspicion of commission of an offence. The 1st respondent justified their action of arrest and detention of the Applicant for 2 days, 3rd – 5th of July 2018 relying on Section 6(a)(b) & (c), Section 7(a)& 38(1) & 41 of the EFCC Act in addition to Section 34 of the Police Act, I strongly believe as it is clearly established that the 1st respondent EFCC acted reasonably within the powers given to it in the law. It was in the act of investigating the criminal complaint made by the 2nd respondent on reasonable grounds that the applicant committed a criminal offence that the applicant was arrested. Therefore, the curtailment of the fundamental rights of the Applicant by way of his arrest cannot be said to be a breach of his fundamental rights.

Power of the police including the EFCC to investigate crime, arrest and to detain a suspect in a crime upon suspicion of having committed a crime is not only constitutional but also statutory. See Sections 4and 24 of Police Act. The Police is conferred with the powers to arrest without warrant – **C.O.P. Ekiti State &Ors v. Mrs Sola Aregbesola&Ors(2020) LPELR – 50177 (CA).**

It is not in doubt that the applicant was arrested and granted bail. Arrest of the applicant was on 3rd July, 2018 and released on bail on 5th July, 2018. Exh EFCC 2A is the bail application by the surety, Felix Oviase and ExhEFCC 2B representing bail

bond dated 5th July, 2018. From the calculation the applicant bail was perfected within 48 hours of arrest, which is within thepurview of the law. A properly executed arrest cannot constitute a breach of fundamental rights of a citizen. A citizen arrested by police or any law enforcement agent in the legitimate exercise of their duty or on grounds of reasonable suspicion cannot sue police or the law enforcement agent for breach of fundamental rights. See**Prince Brian Emonema&Anor v. IGP &Ors (2016) LPELR 41489(CA).**

Placing reliance on the above authority I hold that the arrest of the applicant was legitimate.

On issue of powers to cease a suspects property. The applicant in paragraph 13 averred that the 1st respondent ceased his phone without releasing it.

The 1stRespondent in response said that the applicant's phone ceased by them is an exhibit before the court. Within the decision of the Court of Appeal in the case of**Mr.Ikechukwu Ede v. COP Bauchi State (2014) LPELR 23354 (CA)**Court of Appeal held;

> ***"… it is however instructive on the duty of the police in that regard… corresponding to that duty, he has a right or at any rate an interest on behalf of the publicto seize those goods and detain them pending the trial of the offender and to restore them in due course to the true owner. Further therein, this court stated that Section 44(2)(k) allows temporary taking over of assets of the accused persons pending the hearing and determination of a criminal case that is pending against him".***

The position of this law is very clear that the 1st respondent has power to cease property of the applicant particularly if it is linked to the crime. Such property can be used as an exhibit during trial.

Applicant averred in paragraph 26 and 29 of his affidavit,that the frequent invitation and constant travel to Abuja at instance of the 1stRespondent was a breach. I do not see how this could be a breach of his right. Ogunwumiju JCA in **Mr Bright &Ors v. Mrs Nwakaegolwuoha (2018) LPELR 43758(CA)** held that, *"i**nvitation of a suspect for investigation is squarely within the administrative competence of the appellants."***

I must add that the court does not have powers to control such administrative powers to invite or not invite suspects for statements.

See **Andrew Ayabam v. COP Benue State (2019) LPELR 47283(CA).**

Therefore, invitation to the office of the Respondent in the course of investigation is not a breach of the fundamental right of the Applicant.

The Applicant averred in paragraph 40, 41 and 42 of affidavit that sending him topolygram test during investigations and interrogation was a breach of his fundamental rights. I must emphasise that a polygram test in the course of investigation is part of the duty of the police in the course of their investigation and therefore, not a breach of applicant's fundamental right.

On whether the applicant was not arraigned before a court of law for over 1 year of arrest as averred in paragraph 42/43 of his affidavit, and argued by the applicant counsel.The 1st respondent in paragraph 10 of the counter affidavit averred that a 55 count charge was filed against the applicant and other on

28th May, 2019 with number FHC/WR/44C/19 at Warri and not in Abuja. A copy of the charge is annexed as Exh EFCC 3. In other words the applicant and others are standing trial in Federal High Court, Warri. This piece of evidence was not controverted. I therefore, disbelieve the affidavit evidence of the applicant and the argument of the learned counsel that the applicant was not charged to court till 17th June, 2019, when this application was filed.

More to it, the Applicant admitted in paragraphs 5(g) of Applicant's further affidavit replying to 1stRespondent's counter affidavit to Applicant's Motionon Notice filed on 17th June, 2019, the existence of the charge FHC/WR/44C/19 preferred against himand others.

The applicant had also in paragraph 23, 30 and 44 of affidavit in supports and paragraph 5(k) of his reply to 1st respondent accused the 1stRespondent of tortuous, incessant threats, ridicule, harassment, degrading treatment meted on him. in addition to the 'huge financial losses and hardships resulting from the breach of his fundamental rights.

In the case of **Uzoukwu v. Ezeonu (1991) 6 NWLR (pt 200) 708,** Nike Tobi defined torture as putting a person through some pain which could be extreme. The torture could be mental torture or psychological agony. This involves a situation where a person's mental orientation is affected and he cannot rationalise issues. The infraction of the right of a person must be proved. Torture is forbidden under Section 34(1)(a) of the 1999 Constitution of Federal Republic of Nigeria. It is a violation of the law but there must be proof. A plethora of authorities have it that the police and law enforcement agents must treat the citizens with human respect.

However, Ozor J in **Aneke v. Michael Anielwasi&Ors (2009) 10 NMLR 18,** has held that an applicant alleging a breach of his fundamental human rights has a duty to place before the court all crucial evidence regarding the breach complied of failure to do so is fundamental to the success of the applicant. Thus in the case of **Mr AkinmadeAbiodun Samson v. IGP &Ors(2020) LPELR 50065 (CA),**Garba JCA held;

> ***"So it is not enough for a party or person to approach a court of law with an application calling or praying for protection of his fundamental rights on the basis of alleged threat or breach or contravention of such right. For him to be entitled to such redress or reliefs of protection he must first produce reasonable, sufficient and credible evidence before the court to show and establish satisfactorily factual threat or breach or contravention of the right alleged. Until a person produces evidence which prima facie shows or established a real threat to or factual breach or contravention of this fundamental right guaranteed under Section IV of the Constitution, his application before a court for enforcement of such right will fail and be dismissed out rightly. See Jim-Jaya v. COP, Rivers State (2013)8 NWLR (pt 1350) 225. Udo v. Essien (2014) LPELR 22684 (CA)...".***

On this note what this Court must consider is **whether the applicant was able to establish any infraction of his fundamental rights?**The duty squarely lies on applicant to prove that he was tortured, harassed, threatened and in addition lost financially as result of hardship from the frozen account.

On the allegation that he was tortured, harassed, intimidated, dehumanised, as a result of the arrest by the 1st respondent EFCC at the behest of 2nd respondent is neither here nor there as there was no proof. No medical report or evidence of torture was produced. Applicant claimed that the invitations to the office of EFCC at Abuja was torture and harassment I do not think so as that was an investigation procedure which had led to the preferment of the 55 counts charge against Applicant and others. The Applicant had a duty to call witnesses to establish these infractions to his right which includes – intimidation, threat and torture.

- **Chief Maurice Ebo&Ors v. Mr ChineduOkeke&Ors (2019) LPELR 48090 (CA** tickets

Failure of proof of circumstances amounting to breach of fundamental rights no factors will be considered in the award of damages.There is no evidence than the applicant did any more than to allege several complaints on abuse of his fundamental rights without proof. He merely spread his net in the waters of Atlantic Ocean expecting a catch. Secondly the legitimate complaint of the 2ndRespondent cannot amount to breach of fundamental rights – **Sunny Ubochi v. Chief Godwin Ekpo&Ors (2014) LPELR 23523 (CA).**

My task in ascertaining the breach of a party's fundamental right is to decipher from the affidavit and documentary evidence whether the applicant's rights were breached. I have done my task and discovered that all credible evidence regarding the breach complained of were not established.

I have earlier on found that the applicant failed to prove that the account in question belongs to him, therefore consequently he failed to prove any hardship resulting from the freezing of such account. Clearly Exh ZB2 'Kenosa Oil & Gas Ltd' reveals the

out flow of cash to the applicant on 15/4/19, 25/4/19, 2/5/19 and 6/5/19. I am therefore not persuaded to believe that the applicant experienced financial hardship by the frozen account. When he was receiving money from Kenosa Oil & Gas Ltd account.

I must emphasise that the purported frozen account 1014693840 belonging toKenosa Oil & Gas Ltd was not proved to have any nexus with the applicantas the owner of the company.

Same goes for Zenith Bank PLC Account 1014650528 in Exh A.No credible evidence was established that it belonged to the Applicant. In toto, the Applicant has failed to establish any infraction on his fundamental rights.

Therefore, the9 paragraphs declaratoryreliefs sought by the applicant were unproved and fail woefully.

Consequently reliefs 10-15 equally fail.

Therefore, the proper order to make is order of dismissal. I therefore dismiss this suit CV/2189/19 with a cost of N200,000.00.

HON. JUSTICE A. O. OTALUKA
6/7/2021.