

IN THE HIGH COURT OF JUSTICE OF THE F.C.T.

IN THE ABUJA JUDICIAL DIVISION

HOLDEN AT KUBWA, ABUJA

ON TUESDAY, THE 1ST DAY OF MARCH, 2022

BEFORE HIS LORDSHIP: HON. JUSTICE K. N. OGBONNAYA

JUDGE

SUIT NO. CV/782/2021

BETWEEN:

ENNY JOSH INTEGRATED SERVICES LIMITED.....APPLICANT

AND

- 1. THE INSPECTOR GENERAL OF POLICE**
- 2. ASSISTANT INSPECTOR GENERAL OF POLICE**
- 3. INSPECTOR FASHOLA KOLADE.....RESPONDENTS**
- 4. DSP ADEUNJI IBRAHIM**
- 5. REMILEKUN PRISCILLA EDOJUNG**

JUDGMENT

In this case Enny-Josh a company registered in Nigeria has instituted this action against IGP & 4 Ors. The 5th Respondent in the case is the estranged wife of the M.D of the Applicant.

The Applicant claim that the 1-3 Respondents refusal to release the Vehicle Toyota Hi-lux and to detain and hold on to same is

unlawful, illegal and violation of the Applicant Company's right without Court Order.

An Order directing the 1-3 Respondents to release the Vehicle toyoya Hi-Lux forthwith.

An Order restraining the Respondents, their agents, privies, and subordinates from further detaining or holding unto the said Hi-Lux or acting on the complaint of the 5th Respondent on a matter that is purely civil in Nature.

N50,000,000.00 Million Damages for violation of Applicant company right.

The Grounds as contained in the Application which the Court adopt as if it is set here seriatim in summary.

That Respondents violated the Applicants right to under S.43 & 44 1999 Constitution Federal Republic of Nigeria as to freedom to own property moveable and immovable.

That 1-4 Respondents acting on the behest and prompt of the 5th Respondent unlawfully seized the said Hi-Lux detained same and refused to release same to applicant. That

their action continues to breach the right of the applicant by the Respondent and their agents. That Applicant did not commit any crime known to law to warrant and justify the breach of its extant rights on the ownership of moveable property. That the applicant is entitled to compensation because of the violation of the said right.

The Application is supported by Affidavit of 19 paragraphs and written address and 5 documents attached and marked as exhibits A-E.

In the written address the applicant raised 2 issues for determination which are:

“Whether the right of the Applicant to own property has been and likely to be continually violated breached by the agents of the Respondents to warrant the present Application.”

“Whether having regard to the aforementioned violations the Applicant’s fundamental rights the Applicant is entitled to the reliefs sought”?

ON ISSUE NO.1: it submitted that it has freedom to own property moveable as the Hi-Lux and immovable property too as provided under **SS 43 & 44 1999 Constitution Federal Republic of Nigeria.**

That the facts in the Affidavit states how and extent of the breach of the said right by the respondents continued refusal to release the said Hi-Lux. That the application was based on the provision of **S.46 of the Constitution Federal Republic of Nigeria 1999** which allows applicant to seek redress in this Court to charge the said violation of its rights He also referred to **Ord. 2 R1 of the Fundamental Rights Enforcement Procedure 2009 as well as S. 35 of the 1999 Constitution Federal Republic of Nigeria.** He cited the case of: **AIGORO VS ANEBUNWA (1966) NLR 87**

That the continued seizure detention and withholding of the said vehicle had coursed the Applicant some hardship and has affected its smooth running of its business. It urged the Court to so hold and answer the 1st issue in the favour of the Applicant.

ON ISSUE B: since by the facts and exhibits it has shown that the Respondents had continued to detain the said Hi-lux, and it is not in doubt that the company has suffered because of the detention of the Hi-Lux.

That it is entitled to some compensation as sought. It urged Court to grant the Relief as sought.

Upon receipt of the Application the 1-4 Respondents filed 14 paragraphs Counter Affidavit. They attached Petition written address by the 5th Respondent and report of the Police Legal Department.

In the Written Address 1-4 Respondents raised 4 issues which are:

“Whether the detention of the complaint as breach of trust and cheating amount to breach of the right of the applicant”

“Whether the arrest of applicant onand Legal made to police is ultra vires the powers of the police as .such unlawful.”

“Whether it’s unlawful to have arrested the Applicant and released him for him to seek

redress in Court restraining police from performing its duty/functions”

“Whether Applicant is entitled to his Reliefs as sought”

That the arrest Police made is not unlawful as it was done in furthers of its duty.

NOTE:

The submission of the 1-4 Defendant Counsel is soas if the Applicant is a human person as he stated that the arrest was based on the allegation of fraud committed by the Applicant. It is obvious that the applicant which is a company did not commit any fraud or cheated anyone.

The 1-4 talked of grant of Bail to the applicant. That is very obviously out of place too. This Court holds that the entire submission of the 1-4 Respondents in this written address are misplaced, highly unrelated and misconceived.

The cases cited in support do not relate to the issue. The whole gamut of the submission is unrelated and misapplied. So also the 2nd

question which still deals with arrest of a company which is the applicant which is claiming right to own properties-moveble and immovable.

The story and misapplication is still same the submission of the 1-4 Respondents.

On the 4th issue the 1-4 Respondents had stated that applicant is not entitled to the Reliefs. But a closer look at the submission show that the 1-4 Defendant Counsel continued with the rambling or the commission of the offences of cheating which the Applicant as a company never did. Even the mention of torture does not come up. The same 1-4 Defendant Counsel did not even sign the written address, a sin which this Court has forgiven him of.

The submission of the 1-4 Respondent is a typical of a clear case of copy and paste. He even referred to the amount for compensation as N1,000,000.00 million when the applicant had stated in clear terms in the face of the Writ that it want the Respondents to pay N50,000,000.00 million as compensation.

To this Court the written address by the 1-4 Defendant Counsel is nothing to write home about.

On her own the 5th Respondent filed a Counter of 16 paragraphs. She attached 5 documents marked as Exhibit A-F.

In their written address the 5th Respondent raised on issue for determination which is:

“Whether the Applicant is entitled to Reliefs against 5th Respondent and if yes whether the complaint to the 2nd Defendant by 5th Respondent leading to arrest of Applicant not justified by law.”

The 5th Defendant Counsel submitted that 5th Respondent complained of detention of the vehicle pending investigation by police. That police acted within their mandate under **S.44(2) (k) 1999 Constitution Federal Republic of Nigeria** and their action is legal and lawful. That the Hi-Lux belongs to the 5th Respondent who is a Director of the company. The Applicant . that Consent of the 5th Respondent was not sought before the Co-Director unilaterally changed the ownership

of the vehicle the action raised suspicion of crime committed. He referred to the case of:

ORJI VS ONYEASOH (2000) 2 NWLR

Where Court held that a Director is not liable where he enters into contract in the name of the company or purporting to bind the company, the company is liable and not the Director. Unless the Director undertakes to be personally liable.

That the statement of Account did not show that the deductions were made from the Applicant. That the particulars of ownership that connect applicant are subject of investigation. On which the Police cause the detention she referred to.

LASTMA VS OMOSIWE (2000) LPELR- 521219 (CA)

That the Hi-Lux though initially released to 5th Respondent was collected later by agents of 1st Respondent based on the petition by the alter Ego of the Application. That on that fact the Applicant from complaining as the detention is based on the complaint from its “oga” he referred to:

**NTUNG & ORS VS. LONGWANG & ORS (2018)
LPELR-4562 (CA)**

That an agent is bond by the action of its principal who is disclosed. She referred to :

ANIABOR & ANOR VS EZEABII (2014) LPELR-24151 (CA)

That there is no cause of action against the 5th Respondent. That detention is at the behest of the alter ego of the Applicant. That the petition is not a civil in nature as the allegation raise reasonable suspicion of a crime. She referred to the case of:

**AYAGBAM VS. C.O.P BENUE STATE (2019)
LPELR-47283(CA)**

She urged Court to dismiss the application with substantial cost.

COURT

From the summary of the stories of the Applicant, 1-4 Respondents and the 5th Respondent on whose instruction and prompt the 1-4 Respondent acted, can it be said that the right of the applicant was violated by the actions of the 1-4 Respondents at the instance of the 5th Respondent?

It is the view of this Court that the Respondents violated the rights of the Applicant which is a company jointly owed by the Alter ego of the Applicant and the 5th Respondent. Going by the submissions the vehicle is jointly owed by tem and it was paid for using the money of the company which is the Applicant. There is no justification for the 1-4 Respondent to hand over the vehicle to the 5th Respondent. They acted as property recovery agency which they are not, though they have a right to temper with moveable property of the Applicant. But ought not release the vehicle to the 5th Respondent. They should have charge the matter to Court if they felt that the alter ego of the company and/or the Applicant were trying to commit crime by the alleged but unsubstantiated change of ownership. It's even not for them to release the vehicle to the 5th Respondent. Doing so violated the right as alleged. They never asked the alter ego of the Applicant to present documents to prove the allegation that there was change of ownership. They only recovered documents from the 5th

Respondent. That made her report Legal Dept. to be onside.

That's why this Court hold that the right of the applicant was violated by the said detention of the vehicle parties should have been charged to Court to iron out the issue of criminal breach of trust which they claimed was the basis for the detention of the vehicle.

Police is not a property recovery Agency.

This application is meritorious. It is granted to wit:

Prayer 1 granted.

Prayer 2 granted.

Prayer 3 granted.

No damages awarded the vehicle should be released to the Company-applicant. This is the Judgement of this Court delivered today the.....day of2022 by me.

.....

K.N.OGBONNAYA

HON. JUDGE

