7 IN THE HIG H COURT OF THE FEDERAL CAPITAL TERRITORY

IN THE ABUJA JUDICIAL DIVISION

HOLDEN AT KUJE, ABUJA

BEFORE HIS LORDSHIP: HON. JUSTICE MUHAMMAD S. IDRIS

COURT: 28

DATE: 22nd FEBRUARY, 2022

FCT/HC/CV/2593/21

BETWEEN

TAMUNOBOMA IYALLA ------- **APPLICANT**

AND

1. EREPAGAMOYE IYALLA
2. AURAMIND SERVICES LIMITED } **RESPONDENTS**

JUDGMENT

The Applicant brought this application number CV/2593/2021 under order 2 rules 1 and 2 of the Fundamental Rights (Enforcement Procedure) Rules 2009, sections 34 (1) (CA) 35(1) 9(6) and 44(1) of the Constitution of the Federal Republic of Nigeria 1999 as amended; Articles 5 and 6 of the African Charter on Human and Peoples Rights and under the inherent jurisdiction of the Court dated 23rd September, 2021 and filed on the 7th October 2021 wherein she prays for the following reliefs:-

(i) A declaration that the events of 12th August, 2021 at the premises of the 1st Respondent culminating in the assault, battery, forcible injection of tranquilizer on the Applicant and her eventual abduction by staff of the 2nd Respondent acting under the direction and supervision of the 1st respondent amount to a degrading treatment and it is unlawful, unconstitutional and a breach of the Applicant's right to the dignity of her person as guaranteed under section 34 (1) (a) of the 1999 Constitution of the Federal Republic of Nigeria as amended and under Article 5 of the African Charter on Human and Peoples Right.

(ii) A declaration that the involuntary admission of the Applicant on 12th of August, 2021 at the 2nd Respondent's privately –run facility at No, 19 Yusuf Bala Usman Street, Guzape Abuja on the bare instruction or direction of the 1st Respondent when the Applicant is not suffering from, and has no record of any psychotic Symptoms, substance abuse or any form of mental disorder that necessitate compulsory treatment in the interest of the Applicant's health or safety and protection of other persons or society is unlawful, unconstitutional and constitutes a breach of the Applicant's right to the dignity of her person as guaranteed under section 34 (1) (a) of the 1999 Constitution of the Federal Republic of Nigeria as amended and under Article 5 of the African Charter on Human and Peoples Rights.

(iii) A declaration that the involuntary treatment and/or forcible injection medications administered on the Applicant by the 2nd Respondent at her privately –run facility at No. 19 Yusuf

Bala Usman Street, Guzape Abuja from 12th of August, 2021 to 10th of September, 2021 when the Applicant is not suffering from, and has no record of any psychotic symptoms, substance abuse or any form of mental disorder that necessitate compulsory treatment in the interest of the Applicant's health or safety , or the safety and protection of other persons or society amount to torture and it is traumatizing , dehumanizing, unlawful, unconstitutional and constitute a breach of the Applicant's right to the dignity of her person as guaranteed under section 34 (1)(a) of the 1999 Constitution of the Federal Republic of Nigeria as amended and under Article 5 of the African Charter on Human and Peoples Rights.

(iv) A declaration that the detention of the Applicant by the 2nd Respondent for a period of thirty days, from 12th of August, 2021 to 10th of September, 2021 at the 2nd Respondent's privately – run facility at No. 19 Yusuf Bala Usman Street, Guzape Abuja is unlawful, unconstitutional and constitutes a breach of the Applicant's right to personal liberty as guaranteed under section 35 (1) of the 1999 Constitution of the Federal Republic of Nigeria and Article 6 of the African Charter on Human and Peoples Rights

(v) A declaration that the removal, seizure or otherwise dispossession of the Applicant of her phone, shoes, handbag, earring and jewelries upon her abduction at the premises of the 1st Respondent is unlawful, unconstitutional and constitutes a breach of the Applicant's right to own and enjoy movable property guaranteed under section 44(1) of

the 1999 Constitution of the Federal Republic of Nigeria as amended.

(vi) A declaration that the assault, battery, forcible injection of substances, abduction and involuntary hospitalization of the Applicant on 12th of August, 2021 is not in line with any cognizable law in Nigeria relating to the treatment of persons with mental disorders or with international best practices and procedures of involuntary admission and treatment of persons with mental disorder.

(vii) A declaration that the Applicant has no record of psychotic symptoms, substance abuse or any form of mental disorder that necessitated compulsory treatment in the interest of the Applicant's health or safety, or the safety and protection of other persons or society and the forcible admission and treatment by the 2nd Respondent at the promptings of the 1st Respondent or any other person was in breach of standard medical best practices and procedures.

(viii) And order of injunction restraining the 1st and 2nd Respondents from further subjecting the Applicant to inhuman or degrading treatment, involuntary admission and treatment or in any way jeopardizing the Applicant's right to dignity of her human person, personal liberty and her right to own and enjoy moveable property as guaranteed under section 34 (1) (a), 35 (1) and 44 (1) of the 1999 Constitution of the Federal Republic of Nigeria as amended and in the African Charter on Human and People Rights.

(ix) An order that the Respondents jointly and severally pay the Applicant the sum of ₦100,000,000.00 as damages for the

infringement of the Applicant's right to dignity of human person, personal liberty and ownership and enjoyment of property

(x) An order directing the Respondents to render public apology to the Applicant in two national Dailies for the trauma, humiliation, degradation of her dignity and for her unlawful detention at the 2nd Respondent's facility for 30days.

(xi) An order directing the 2nd Respondent to make full disclosure within 14 days of judgment of all the substances and medications injected into the Applicant's body during the 30 days period she was involuntarily admitted and treated in the 2nd Respondent's facility and to make available to the Applicant a copy of her Medical folder kept by the 2nd Respondent.

In her 49 paragraphs affidavit dated 7th October,2021 Applicant avers inter alia that.

She has suffered domestic violence and abuse while being married to the 1st Respondent including while being pregnant. that the union has three children, that the Applicant filed a dissolution of marriage suit at the FCT High Court and subsequently moved out of their matrimonial home as the 1st Respondent continued to be violent with her. That with the consent of the 1st Respondent, Applicant took their children to school in the car she had been using while living in their matrimonial Home.

That on the 12th of August, 2021 the 1st Respondent called her and asked her to come with the car. While unknown to her the 1st

Respondent had invited the medical personnel and supporting staff of the 2nd Respondent to wait in ambush and abduct her to their facility on the subterfuge that she has mental disorder. That the said men ambushed her on her arrival slapping and beating her on the forehead while the 1st Respondent watched. That the Medical Personnel one Dr. David Eruotom injected two dose of a substance into her body that caused her to pass out. That she woke up at the 2nd Respondent facility with bruises on her face and blood clot in her right eye.

That she vehemently objected to her involuntary admission at the facility and insisted that she had no record of mental disorder. That she was subjected to forced medication with her hand tired and she was injected almost daily. That she was detained against her will for a period of 30days in the facility. That she has never suffered or been diagnosed to suffer any mental disorder or psychotic illness that will warrants her involuntary admission at the facility.

Applicant avers that the 1st Respondent invited her to the house on the 12th August, 2021 abducted her and involuntarily admitted her to the 2nd Respondents facility as a strategy to declare her mentally unfit to have custody of the children of the marriage in the petition she filed before the High Court with number PET/103/19.

That the 1st Respondent also used her abduction to retrieve the family car.

That prior to her abduction and involuntary admission there was no evaluation on Applicants mental state by the 2nd Respondent

and that same compromised its professional ethics and standard by playing along with the 1st Respondent and violating Applicants fundamental rights.

That Applicant was never presented to any Magistrate or Court to sanction her detention as a lunatic. That her valuable including ATM cards, phone were taken away from here upon her abduction and have not been returned to her.

3 annexure are attached to this application and a written address where Counsel on behalf of Applicant formulated 2 issues for determination.

Counsel submits that the Applicants fundamental rights to dignity of her human person, personal liberty and to own and enjoy movable property were roundly violated by both Respondents.

That the Applicant was abducted from the 1st Respondents premises and assaulted, battered and forcible injected with a substance suspected to be tranquilizers and caused her to lose consciousness and involuntarily admitted at the 2nd Respondents facility. Counsel to Applicant submits that the Applicant is not and has never been certified to be mentally ill. That the lunacy Act of 1958 allows involuntary admission of mentally ill person asylums in deserving circumstances and give medical practitioners and Magistrates powers to determine who is lunatic and to determine when to detain the person and that such powers or determination cannot be exercised arbitrarily or in vacuum.

That the Lunacy Act of 1958 does not permit a medical practitioner to act arbitrary or rely on the mere assumptions of a family member pounce on an unknown person.

Citing Article 15(1) (2) of Convention on the Rights of Persons with Disabilities (CRPD) Counsel stated that assuming without conceding that the Applicant exhibited signs of mental disability the manner of her adduction, detention and treatment still violates her fundamental rights.

That her 30 days detention at the 2nd Respondents facility was an infringement of her right to liberty as provided under section 35(1) 1999 Constitution. That while the Lunacy Act 1958 allows for the involuntary admission of mentally ill persons into asylums, the period shall not exceed 7 days except with a Court order. That the Applicant was detained beyond 7 days when there is no evidence or record showing she is mentally ill.

Counsel submits that even if the Applicant was shown to be mentally ill 30 days detention is not in conformity with the law. He relied on Article 14(1) (b) of the Convention on the Rights of Persons with Disability (CRPD).

That the Applicants right to own and enjoy moveable property was violated when her Nokia phone wrist watch, shoes, jewelries and hand bag were taken away from her and up till the time of filing this action same has not been returned to her despite due demand. See section 44(1) 1999 Constitution.

On these premise, Counsel to Applicant submits that the law is now trite that where the fundamental right of a person is

violated, he would be entitled to compensation through award of damages (Counsel relied on ***SECTION 35 (6) 1999 CONSTITUTION and CHAIRMAN EFCC V LITTLE CHILD 3 NWLR (PT1498) P72 at P94 paragraph A. OKONKWO VS OGBOGU (1996)5 NWLR (pt449) p. 420***

Counsel urged the Court to resolve all the issues raised in favour of the Applicant and vindicate her fundamental rights.

The 1st Respondent filed a counter affidavit dated and filed on the 10th 2021 when he avers that the Applicants allegation of cruelty and violent tendencies on his part are spurious and on the contrary, the Applicant is the one who has been repeatedly violent towards him, spitting or slapping and biting him while destroying breakables around the house when she is upset. That Applicant disappears from the house without provocation or cause.

That the Applicant connived with one Dr. Ndadikpo Ajakpo to accumulate fake hospital reports to insinuate battering from 2017 to 2020 with no photographs showing what the results alleged. That the Applicant was arrested on the 3rd of April, 2020 along with brothers for conspiring to steal and sell 1st Respondents Lexus SUV, his wrist watch valued at $1000 and a Luxury Mont-Blanc Pen valued at $350 in a pending matter at the police.

That the Applicant had disappeared from their home for a total of over one year and two months between 2017 and 2020 and the house helps have been cooking and helping with the children.

That the Applicants mother who had been living with the parties to help with the children initiated the invitation of the 2nd Respondent to assess the mental state of the Applicant as she had reiterated that the Applicant's violent behavior and incessant disappearance had worsened retrogressively.

That after initiation of the petition for dissolution of marriage the Applicant would come to the house and spend all day and later leave to an unknown destination. That all the bills and necessary documentation was addressed to the Applicants mother because she had arranged for the Applicant to be taken to the 2nd Respondent. That series of test were carried out on the Applicant and the result was addressed to the Applicants mother.

That while the Applicant was at the 2nd Respondent one Air Vice Marshal Calmday Nelson gained access to the facility and removed the Applicant from same. That Applicants mother was informed of the incidence and she wrote to the chief of Air Staff, the Inspector General of police and the said Air Vice Marshal Calmday Nelson expressing her displeasure at the incident.

Defendant avers further that the Applicant has a pending case with the police in respect of their attempt to steal and dispose off his Lexus SUV. That the Applicant on Friday June 11th , 2021 came to the house and made away with the same SUV, food in the house and the money 1st respondent gave her for cooking. That the car was eventually recovered when Applicant was at 2nd Respondents facility.

That all the Applicant's claims are fabricated and malicious. 1st Respondent urge the Court to dismiss the suit.

Annexure marked exhibits A,B1,B2,B3,C,D,E and F were attached to this application.

In his written address Counsel on behalf of 1st Respondent submits that it is one thing for the Applicant to prove that her right as enshrined in Chapter IV 1999 Constitution has been breached and it is another thing for the Applicant to prove that the said party brought to Court is the party who has breached that right. Counsel relied on section 131 (1) (2) of the Evidence Act 2011 and ***ONAH VS OKENNA (2010) 7 NWLR (pt1194) 512 at 553.***

That exhibits B1 –B3 show clearly the source of the Applicants stay at the 2nd Respondents facility as it was the Applicants mother who not only initiated the movement of the Applicant to the 2nd Respondent but also all documentation and bills were to her as well. Counsel contends that he who asserts must prove and relied on section 131 (1) (2) of the Evidence Act and ***DR. OLIVER ONYAL & ANOR VS CHIEF NEAKWO OKPALA & 2ORS (2001) 1NWLR (pt694) page 282 at 304*** *as* the standard of proof expected of the Applicant goes beyond making assertions.

Counsel contends further that it will be negligent on the part of the Applicants mother and 1st Respondent to sit by while the Applicants mental health deteriorates. That the Respondents and the entire society owe a duty of care to any person including the Applicant suspected of having a mental disorder.

That insanity is in degrees and include lucid madness and it could be that the Applicant may appear to be normal when in actual

fact, may have suppressed insanity that manifests itself occasionally and only medical science can reveal and in this case the report of the 2nd Respondent attests to the mental illness of the Applicant. Counsel urged the Court to dismiss the suit.

The 2nd Respondent filed their counter affidavit dated and filed on the 12th January, 2022 deposed to by one Dr. Oghech Dominic the medical consultant in behavioral medicine/psychiatrist. The 2nd Respondent Deponent avers that he was the consultant in charge of the Applicant when she was admitted at the 2nd respondent.

That in August, 2021 one Madam Angelina Atenso a retired Chief Nursing Officer at the University of Port-Harcourt Teaching Hospital, River State approached the 2nd Respondent facility to seek medical care for her daughter. The Applicant in this case informing the 2nd Respondent that her daughter (the Applicant) exhibits excessive aggression, abnormal acts and very suspicious behavior, easily irritable and paranoia, uncontrollable anger that results to destruction of object around her like glass, mirror. That the Applicant has been found at brothels and among drug addicts on disappearing from her matrimonial home. That a consent form was signed by the Applicant mother at the 2nd Respondent and on the 12th August, 2021 its staff visited the residence of the Applicant on her mother's invitation for the purpose of counseling and positive evaluation. That the Applicant was eating ice from the fridge oblivious of the staff of the 2nd Respondent and when her attention was called, she began to scream uncontrollable, became very aggressive. That the team professionally restrained the Applicant and place her on tranquilizers . That the Applicant

was never assaulted, slapped or beaten as she alleged. That most patients as the Applicant would requires involuntary admission at the facility as they would not agree with their relatives on their state. That in view of the expressive aggression and paranoid delusions demonstrated by the Applicant while on admission it was only cautionary to restrain the Applicant to enable her receive her medication.

Deponent denies paragraphs26-32,40-43 of the Applicants affidavit. That the Applicant was diagnosed with anemia and huge symptomatic uterine fibroid.

That following the letters written to the Chief of defence staff by the Applicants mother concerning the Applicants removal from the 2nd Respondent by one Air Vice Marshal Calmday Nelson a reply by the Chief of Defence Staff addressed to the 2nd Respondent dated 24th September,2021. Stating that investigation was presently on going into the allegations raised in the petition.

That no personal item such as handbag, wrist watch Jewelry of the Applicant was brought to the facility while the Applicant was admitted.

That the Applicant is entitled to any claim declaration, order or compensation against the 2nd Respondent and urges the Court to dismiss the entire claim and award ₦2,000,000.00 against the Applicant as cost of this litigation.

Attached to this counter affidavit are exhibits Auramind 1-11.

In their written address Counsel on behalf of the 2nd Respondent relied on section 12(1) (a)(b) (c) of the Lunacy Act 1958 which

among other things provides that a person may be admitted to and detained in an admission center upon certification of a medical practitioner or superintendent of such admission center and be examined by the Superintendent or a medical officer attached to the center.

That a proper medical evaluation was carried out on the Applicant before her admission in the 2nd Respondents facility see Auramind 3 and 4. Counsel cited ***UDOFIA VS STATE (1988) LPELR 3305 (SC) NWOYE IGWEZE ONYEKWE VS THE STATE (1988) I NWLR 365 at page 579 (SC)***. On the guiding principles in establishing insanity. That the evidence adduced before this Court in this case by the 2nd Respondent cannot be said to have breached the Applicants right to liberty when in actual fact the 2nd Respondent provided professional service to the Applicant on the instruction of her mother.

Counsel urged the Court to dismiss the Applicants application as it is vexatious and lacks merit.

Applicant filed a further and better affidavit to the 1st Respondent's counter affidavit dated 17th January, 2022 and to the 2nd Respondent's counter affidavit dated 19th January, 2022.

Attached to the further and better affidavit to the 1st Respondents counter affidavit are two annexure and a reply on point of law.

The Applicant in this application claims her right to dignity and right to enjoy movable property were infringed upon.

The right to applicants dignity in this case is tied to events leading to the right to enjoy movable property so I would start

with the right to dignity of person. Whether the Applicant's right to dignity was infringed upon:

Right to dignity of the person according to section 31 1999 Constitution which provides that every individual is entitled to respect for the dignity of his person. This means that :-

(a) No person shall be subjected to torture or to inhuman or degrading treatment.
(b) No person shall be held in slavery or servitude.
(c) No person shall be required to perform forced labour or compulsory labour.

See the case of ***EZE ADUKWA VS MADUKA & ANOR (1997) LPELR – 8062 (CA).***

The Applicant in this case claims she had been tortured by the 1st and 2nd Respondents on different occasions see paragraphs 7,16,42 of the Applicant affidavit in support of the motion on notice and annexure attached to the said motion.

Torture according to Black's law dictionary 9th edition page 1627 is the infliction of intense pain to the body or mind to punish, to extract a confession or information or to obtain a sadistic pleasure . see section 34 91) (a) 1999 Constitution and ***ODIONA V ASSIST IGP (2013) LPELR – 20698 (CA).***

Applicant also claims that she was held involuntarily at the 2nd Respondents facility see Applicant paragraph 19, 20,21,22,23,24,25 of the affidavit in support.

The 2nd Respondent did not deny taking the Applicant to their facility and keeping her there for 30 days. The 2nd Respondent only denies taking her involuntarily without instruction from Applicants family and also denies any form of torture on the Applicant. See 2nd Respondents paragraphs 11,12,14,15,16,20,21 of the counter affidavit.

The Mental Health Act No 45, 1958 defines an admission center as a place appointed to be an admission center under the Act. See section 4 Mental Health Act 1958. Section 1291) (part iv) of the said act provides thus:-

(1) A person may be admitted to and detained in an admission center.

(a) Upon the certificate of a medical practitioner who is of the opinion that such person is a mentally ill person.

(b) Upon a written request to be so admitted and detained made by him to the superintendent of such admission center

(c) Upon a written request for him to be so admitted and detained made to the superintendent of admission center by a relative or friend of such person.

In the case before the Court, the mother of the Applicant by exhibit AUramind 3 and 4 paragraphs 7 (a) (b) (c) of 2nd Respondents counter affidavit and paragraph 43 of 1st Respondents counter affidavit requested

for the medical report evaluation of the Applicant from the 2nd Respondent.

By paragraphs 12,13,14,15 and 16 of the 2nd Respondents counter affidavit and paragraphs 43,44 of the 1st Respondents counter affidavit the staff of the 2nd Respondent came to the house to evaluate the Applicant and only took her to the 2nd respondents facility after she exhibited incoherence and violent tendencies. Section 12 (1) (e) mental Health Act 1958 states that:-

Provided that a person admitted to or detained in an admission center pursuant to paragraphs (b) (c) (d) of (e) of this subsection shall be examined by the Superintendent or a medical officer attached to such admission center as soon as practicable after his admission there to and shall not be detained therein after such examination unless such superintendent or medical officer certifies that in his opinion such person is a mentally ill person.

By 2nd Respondents exhibit Auramind 4 which is a medical report of the Applicant reads in part:-

> "A diagnosis of a medical health condition requiring in-patient was made"

This to my mind is the crux of the Applicant been kept at the 2nd Respondents facility. An action backed up by law for the good of the Applicant which does not infringe on her fundamental rights in any way.

By paragraphs 14,15,16 of the Respondents counter affidavit I cannot imagine that while restraining the Applicant to take her to the 2nd Respondents facility the staff of the 2nd Respondent could have thought to take her hand bag, jewelry wrist watch along with them.

Even if they had, the events of 10th September, 2021 where alleged personnel of the Nigerian Air Force came and forcefully took the Applicant out of the 2nd Respondents facility, they could not have remembered to take her phone, handbag, wrist watch while forcefully removing her from the facility see paragraphs 34 and 35 of the 2nd Respondent counter paragraphs 45,46 and 47 of the 1st Respondents counter and an admission of the said incidence by the Applicant in her paragraph34 of the affidavit in support.

To my mind, 1st Respondents exhibits B1-3 2nd Respondents exhibits Auramind 8,9 and 10 corroborates the fact that the Applicants mother was majorly involved in the decision to evaluate and admit her at the 2nd Respondents facility an act that is in line with section 12 (1) (c) of the Mental health Act 1958.

The alleged torture by the Applicant is without any proof before the Court. Although 2nd medical reports are attached to the Applicant motion a quick perusal of the said reports are unconvincing and inconclusive. The Applicants medical condition reported in the annexure are said to be inflicted by her husband. No pictures are attached to convince the Court that from 2011 to 2015 the Applicant really was tortured by her husband.

Another question begs to be answered is how did the medical officer know for certain that the Applicant bruises were inflicted by her husband.

There is a corroborative fact by the Respondents in this case of the Applicants departure from her home and irregular wondering see paragraphs 19,33,34 of the 1st Respondents counter and paragraphs 7 (v) (w) (y) 2nd Respondents counter. Could it not be, that on one or several of such occasions the Applicant could have been assaulted or beaten up?

The Applicant has failed to establish a case of infringement of her fundamental human rights as provided by section 34 (1)(a) 25(1) and (6) and 44(1) of the 1999 Constitution. Looking at the fact of the case as disclosed by affidavit evidence generally reasonable person will perceive and be satisfied that none of the Acts complained of fall within the acts in the supra provision of the constitution. In 1st and 2nd Respondent's Counsel. It is settled by a long line of decisions of the Supreme Court,

that remedy other than those touching upon fundamental Rights cannot be sought under the Fundamental Rule Enforcement Rule see ***ABDULIN VS AKAR (2006) 5 SCNJ 62*** Per S.A Akinter JSC.

It is the law as decided by the Supreme Court in a long line of cases on the subject that when an application is brought under the rules a condition precedent to the exercise of the Courts jurisdiction is that the enforcement of Fundamental Rights or the securing of the enforcement thereof shall be the main claim and not an accessory claim where the main or principle claim is not the enforcement of securing the enforcement of a fundament right, the jurisdiction of the Court cannot be properly exercised as it will be incompetent see ***MADUKOLA & ORS NKEDILIM (1962) 2 SCNLR 341 , BORONO RADIO TELEVSION CORPERATION VS BASIL EGBOU (1997) 12 NWLR (pt 531) 29 and TUKAR VS GOVT OF TARABA STATE (1997) 6 NWLR (pt510) 549 GAFAR VS KWARA STATE (2007) 2 SCNJ 58*** *Per Mow Mow J.S.C.*

Having carefully considered the respective submission of the learned Counsel on both side I am of the view that the approach is to examine the reliefs sought by the Applicant before this Court as a party seeking to enforce her fundamental right the grounds for seeking the reliefs and the facts relied upon to support the reliefs being sought. If the reliefs sought ,

the grounds upon which the reliefs were sought together with the facts relied upon in support of such reliefs have disclosed that breach of fundamental right is the main plank upon which the reliefs are being sought, then redress may be sought by the Fundamental Right Enforcement Procedure Rules .

In this case there is nothing at all that fall within the requirement of the rules see ***WAEC VS ADEYANJU (2008) 4 SCNJ 186-187*** per Mow Mow JSC.

The question is whether looking at the reliefs as reproduced in this judgment together with the grounds on which the claim was based it can be said that there exist a breach of fundamental right of the Applicants by the two Respondent as can be seen from the process filed by the Applicant. The answer is no this can be seen from the analysis of the reliefs facts and the grounds upon which the application is brought so also the accompanied affidavit in support of the Application. The settled principles is that in ascertaining the justiceablility or competence of a suit commenced by way of an application under the Fundamental Right Enforcement Procedure Rules, the Court must ensure that the enforcement of the fundamental rights under Chapter iv of the constitution is the main claim. In this case not to talk of even the main claims there is no any claim whatsoever in the case at hand. The law is

trite that where a claim is not initiated by due process of law, the claim is incompetent and where all the incompetents claim was heard by the Court, the proceedings before the Court is a nullity see ***MADUKOLOS'S case (supra)***.

I can safely conclude that I have relied heavily on the reliefs, affidavit and the grounds upon which this application is brought. However I found no merit in the application but also there is nothing before the Court to be granted I so much strongly relied on the 1st and 2nd Respondent counter affidavit and accordingly dismiss the suit and award a cost of ₦100,000.00 against the Applicant. The said sum to be shared equally between the two Respondents.

HON. JUSTICE M.S IDRIS
(Presiding Judge)
22/2/2022