

**IN THE HIGH OF JUSTICE OF BAUCHI STATE
HOLDEN AT BAUCHI**

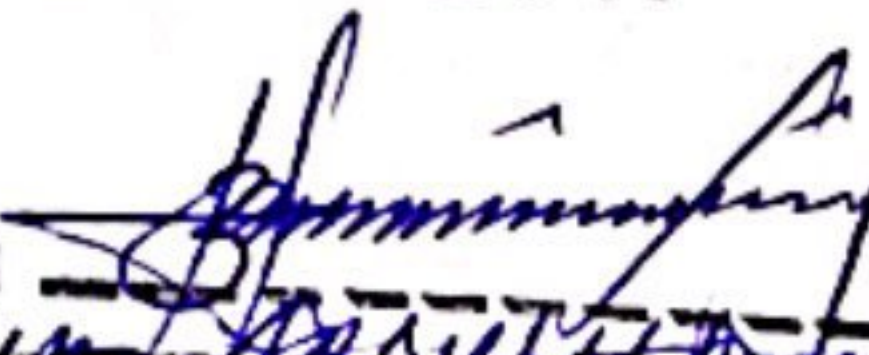
15 11 2019

HASHIMU SHEHU S. BAUCHI AND 1 OTHER

VS.

THE CHAIRMAN E.F.C.C. AND TWO OTHERS

CERTIFIED TRUE COPY
HIGH COURT OF JUSTICE
BAUCHI

SIGN 
F.W. Galadima
Principal Registrar
High Court of Justice
Bauchi
29/11/2023

BA/419M/2019

Applicant Absent

Respondent Absent

3rd Respondent Present

F.W Galadima for the 3rd Respondent

JUDGMENT

That by way of an application for the enforcement of Hashmu Shehu S. Bauchi (Mai Unguwan Bauchi Quarters) and Halliru Shehu S. Bauchi (Mai Unguwan Jahun) for the enforcement of their fundamental rights under the 1999 CFRN (as amended), pursuant to fundamental rights (enforcement procedure) rules 2009, SECTION 34, 35, 41, 44. AND 46 (A) AND (2) and African charter for human and people rights. That applicants counsel Nathan Umedie Esq. filed and moved a motion on notice dated the 30/09/2019. File on the 03/10/2019. That prayers are:

1. An order of declaration that the act of 1st and 2nd respondents at arrest, detention, harassment, and intimidation of the applicants of the instance of the 3rd respondent, in respect of a land matter that has already been decided by High Court No.1 Bauchi, vide her Judgment dated the 23/12/2011. Ultra-vires their powers and

amount to infringement of their fundamental rights as guaranteed by the CFRN 1999 (as amended).

2. An order of declaration, that the 1st and 2nd respondents have no power or authority in interfering at the instance of the 3rd respondent in an issue that borders on title to land that has already been decided by High Court no. 1 Bauchi, vide her judgment dated 23/12/2011.
3. An order of declaration that the 1st and 2nd respondents have no power or authority to act against the applicants in respect of a complaint filed by the 3rd respondent, subject matter (civil and criminal) which is pending before Chief Magistrate Court NO.2 and 5 respectively against the 3rd respondent.
4. An Order of perpetual injunction restraining all the respondents or their agents, servants, privies, representatives or any other person deriving authority from them, from further arresting detaining, intimidating, harassing or in any manner whoever tempering with the applicant's fundamental rights in connection with this matter.
5. An order of declaration that the 1st and 2nd respondents are not courts of law and cannot sit on appeal over a valid and subsisting orders of the high court of justice, of Bauchi State or any state or set same aside and direct the applicants to release their land to the 3rd respondent.
6. An order of this honourable Court directing the respondents to jointly and severally pay ^{The} sum of Five Hundred ^{Thousand} Naira (N500,000) only being monies paid by the applicants as soliettors fess.

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7. The sum of Twenty Million Naira (N20,000,000) only jointly and severally being general damages for violating the applicants fundamental rights.
8. Cost of this action and all other incidental expenses.
9. For such further or other orders as the honourable Court may deem fit to make in the circumstances.

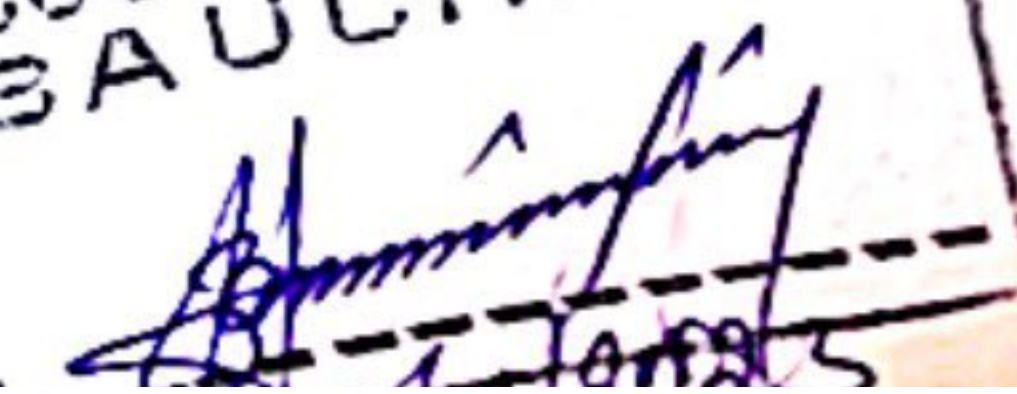
That the motion is supported by a six grands and a statement in support of the applicants containing all that is required and applicants placed reliance and a 34 (thirty four) paragraphs affidavits deposed to by the 1st applicant for himself and on behalf of the 2nd applicant and placed reliance therein.

That there are seven annexure accompanying said application, applicants placed reliance therein in all the said annexures. That in compliance with the fundamental rights **(Enforcement Procedure) Rule 2009** Applicants filed and adopted a written address dated the 30/09/2019, and urged Court to grant the said application.

That applicants said that the application affidavits have not been challenged. And remain most grateful.

That the first (1st) respondent counsel Okemezie Esq. said that they filed a counter – affidavits in opposition to the motion on notice dated the 30/09/2019. With suit number BA/419/2019, that the said counter – affidavit is deposed to by one Atukpa Aniyem. That the said counter – affidavit is supported with seven (7) annexures. That 1st and 2nd respondents relied on all the averments as contained in their counter – affidavits, most especially paragraphs 9, 11, 29.

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That in compliance with the rules of Court the 1st and 2nd respondents filed a written address and formulated four (4) issues for determination, dated the 18/10/2019. That the 1st and 2nd respondents adopted the said written address as their oral submissions in this case that the said counter – affidavit have been duly served on the applicants and the 3rd respondent.

That applicants were served on the 24/10/2019 and 1st x 2nd respondents did to receive a reply.

And urge court to accept the counter – affidavit to the 1st and 2nd respondents and their written address, as having no opposition as the applicants have admitted same to be true and band to accept same.

That the third respondents counsel O.J Bichi Esq, said that on behalf of the 3rd respondent, they filed a counter – affidavit dated and filed on the 05/10/2019, and that to date being properly filed and served. That the said 3rd respondent counter – affidavit has twenty eight paragraphs, affidavits, which raised the following issues for determination. That 3rd respondent have an exhibit as exhibit "HTBU" and in submissions to the rules of proceedings, 3rd Respondent filed and adopted a written address as their oral submissions. And urged court to dismiss the application for lacking in merit, frivolous and abused of courts processes.

That the two applicants' written address raised the following issues for determination at this point of judgment:

- a. Whether the applicant's are entitled to the fundamental rights in **SECTION 34,35,41,44 AND 46 OF THE 1999 CFRN (AS AMENDED)** and African charter of Human and People Rights.



b. Whether the 1st and 2nd respondents have the powers to arrest, detain, humiliate, embarrass and intimidate the applicants at the instance of the 3rd respondent over land issue that has been settled by the Court.

That the first issue as raised by the applicants written address that the first and 2nd respondent are entities in Federal Republic of Nigeria. The applicants' right to personal liberty, freedom of movement and dignity of human person, high ownership of property were breached and continually being breached in Bauchi, Bauchi State where the respondents resides and carry out their business.

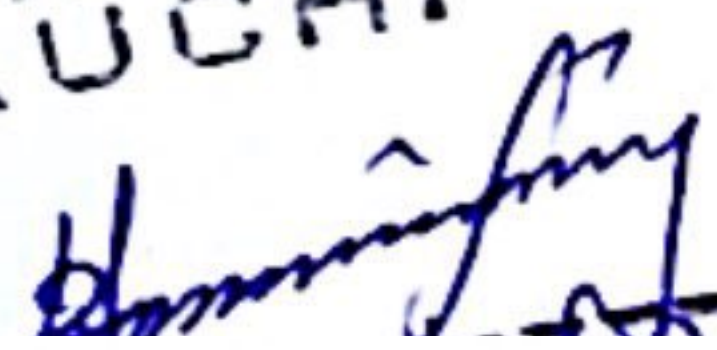
Any person who alleges that any of the fundamental rights provided for in the constitution and to which he is entitled to has been, s being or is likely to be infringed, may apply to the High Court in the state where the infringement occurs is likely to occur for redress.

That proceeding paragraphs expressly address the issues of applicants' fundamental human rights and the African. Charter human and peoples' rights 6 (renfication and enforcement) **ACT, CAP 10 LFN 2004.**

That the CFRN 1999, (as amended) under sections **34(1) AND 35(1) (3) (4) (5A AND 6B) (6)** makes provision which covers the rights of the applicants that have been violated by the respondent to which the applicants seek redress from the Honourable Court. That **SECTION 3, 4 (1) (CFRN 1999)** provided that:

"Every individuals is entitled to respect for the dignity of his person and accordingly.

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(a) no person shall be subjected to torture or to inhumance or degrading treatment”.

That the arrest, detention and torture of the applicant by the respondents for no just cause or reason clearly violates the above provision which this Honourable Court can provide remedy as deposed to in the affidavit of the applicants.

That the way and manner personal liberty of the applicants have been deprived and tempered with by the respondents is clearly against the letters and spirit of the CFRN cited case of **DOKUBO ASARI VS. F.R.N (2007) 30 WRN 1 @ 3 RATIO 11**

That failure of the respondents to inform the applicants of the offences they are alleged to have committed within 24 hours and in the language they understand clearly violates their rights under **SECTION 35 (3) CFRN 1999** that also failure of arraign applicants before a competent court with him the time frame allowed by **SECTION 35(4) AND (5) CFRN 1999** Within reasonable time of one deef. That respondents have no excuse whatsoever for not complying with a constitutional provision other than their own arrogance and belief of superiority to everyone and being untouchable. Cited case of:

UBASIN BANDA & 4 ORS VS. GUNA RATNE & 3 ORS (2005) CHR 291@296 RATIO 2 X 6:

That if applicants are able to satisfy the court that any of such rights have been violate, is being violated or is likely to be violated, the court can provide remedies to address such grievances. Cited case of:

USHE VS. C.O.P (2005) NWLR (PT. 937) PG 499

Applicants have capiously and clearly met these criteria as deposed in their affidavits and urged court to most respectfully grant the prayers contained in their motion papers.

That applicants had to engage the services of a counsel and paid their professional and filling fees to the tune of N500,000.00k. That these expenses would never have been incurred but for the actions and autics of the respondents whose action are clearly ultra vires, their power, unconstitutional and in gross violation of both moral, sociltalnam, decency as well as our grand norm (CFRN).

That the African charter on human and peoples right has been domesticated by **FORCE OF (AP TO LAWS OF THE FEDERATION** of Nigeria and the respondents are and to able by its provisions contained thereto regarding the human rights. Cited case of **UBANI VS. DIRECTOR SSS (1999) 11 NWLR (PT. 129) PES** Applicants urged court to hold that the respondents violated the applicants rights as guaranteed in the **CFRN 1999**.

That as atrite law that applicants are entitled to award of damages and within apology have been established that their rights have been violated by the respondents. Award of the sum of N20,000,000.00k as damages to the applicant, though same will not assuage them of the psychological, physical and emotional trauma they have under gone at the hands of the respondents but same will send a clear and distinct message to every one that the era of impunity by security agencies are no more and that rule of law is the order of the day in our nation, that written apology to be published in two national dailies with wide national

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circulations. Cited case of **PRITISH AIRWAYS VS. ATOYEBI (2014)**
11 SCM 93 @ 99 RATIOS 3 X 4

That the breach of the applicants' fundamental human rights occurred in Bauchi, Bauchi State, applicants respectfully submitted that the Bauchi State High Court has the jurisdiction to entertain the suit. Cited case of:

NGIGE VS. ACHUKWU (2003) 2 NWLR (PART 969) PAGES 123.
ATT. GEN. FED. VS. ABULE (2005) 2 NWLR (PT. 936) PAGES 369
AND ORDER 11 RULE 1, OF FUNDAMENTAL HUMAN RIGHTS
(ENFORCEMENT) PPO (EEDURE) RULE 2009. SPECIFIC
FUNDAMENTAL RIGHTS OF THE APPLICANTS BREACHED

Applicants submitted that there are basically 5 fundamental human rights of the applicants that were breached by the respondents. They are rights to dignity of human persons, to personal liberty, fair hearing, freedom of movement and to acquire and own immovable property anywhere in Nigeria. That the cautions arrest, detention and of the applicants by the agents of the 1st and 2nd respondents at the instance of the 3rd respondent, for no just cause, is a clear contravention of **SECTION 41 CFRN. 1999 (AS AMENDED).**

That issue two, no that the respondents are not courts of law and have no power or authority to interfere with land matter or any matter that is already adjudicated upon by the Bauchi State High Court. That power rest with the court of Law and not 1st and 2nd respondents or any other person. More so, the 3rd respondent is being tried prosecuted by the Chief Magistrate Court No.2, Bauchi but irancailly they are acting at this instance to continuously violate the fundamental rights of the applicants

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That **SECTION 6 (6) (B) (FRN 1999, (AS AMENDED)** that only court are vested with judicial powers in matters between persons, government or authority and to any person in Nigeria. Cited Case of:

GOV'T OF IMO STATE VS. AMUZE (2009) 13 NWLR (PT. 1157) PAGES 34 AT 46 RATIOS "16"

Applicants urged court to held that their rights have been breached as in fundamental human rights to person liberty and freedom of movement and grant the reliefs sought by the applicants as contained on the face of the motion. Cited case of: **ABASIN BANDA & 4 ORS VS. GUNARATNE & 3 ORS (2005) 294 – 295 RATIOS "3"**

REMEDIES AVAILABLE TO THE APPLICANT. ORDER XI OF THE FUNDAMENTAL HUMAN RIGHTS (CERTIFICATION AND ENFORCEMENT) RULES, 2009.

Provides that at the hearing of any application under three rules, the court may make such order(s), issue writs and give such directions as it may consider necessary and appropriate for the purpose of enforcing or securing the enforcement of any of this fundamental human and peoples rights (certification and enforcement) Act, to which the applicants may be entitled to.

Applicants submitted that the case cited order gives a very broad and omnibus powers to the court to grant all the reliefs that the applicants seeks before the court.

That the 1st and 2nd respondents written address raised the following issues for determination at this point of judgment:

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1. Whether the allegations in the petition against the applicant therein disclosed an reasonable suspicious of commission of an offence known to law for which the economic and financial crimes commission is empowered to investigate.
2. Whether the applicant has made out a case to entitle this court to interfere with the statutory and constitutional right of the state through the EFCC, to investigate and possibly prosecute the allegations of crime made.
3. Whether 1st and 2nd respondents are juristic person endeavor with legal capacity to use and be sued.
4. Whether or not the service of the applicant's applications/processes on 1st and 2nd respondent outside jurisdiction of this honourable court without leave of the court to serve outside jurisdiction is valid and competent in law.

That on the first issue as raised by 1st and 2nd respondents counsel, they submitted that the complain from the 3rd respondent linking the applicants which activated the investigation by 1st and 2nd respondents relates to criminal conspiracy, cheating, fraud which relates to economic and financial crimes.

1st and 2nd respondent submitted that with respect that the allegations against the applicant are offences known to law for which the state through EFCC is statutorily and constitutionally empowered to investigate pursuant to **SECTION 35(1) (C) CFRN** to be read in conjunction with the derogation clause in **SECTION 45(1) CFRN**.

Which permits the state to derogate from the applicants' fundamental rights in the interest of national security among others.

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The commissions power to do is derived from **SECTION 6 – 7 OF THE EFCC ESTABLISHMENT ACT, 2004**, particularly **SECTION 6(B) OF THE EFCC ACT**, Vests the commission with the power to investigate all financial crimes including advanced fee fraud, money laundering, counterfeiting, illegal charge transfer, future market fraud, fraudulent encashment of negotiable instruments, computer credit card fraud, contract sum, issuance of dishonoured charges, land fraud, economic and financial crimes etc.

That under **SECTION 46 OF THE EFCC ACT**, economic and financial crimes include any form of fraud etc, perpetrated by either a person corporate body or both.

That it was pursuant on this power conferred on the commission that the 2nd respondent decided to investigate the allegation that links the applicants and therefore invited the applicants to its of tell the investigating team their own side of the story. the applicant volunteered their statement after which they were released forth with and subsequently they were released to a surety pending further investigation and possible prosecution. Rather than allowing the investigation to run its course, they are seeking to hide under the doctrine of fundamental right enforcement to obstruct and to tuncate the investigation and possible prosecution and thereby should himself from the criminal investigation/prosecution.

That in view of the contention above, the respondents have the right to investigate and prosecute the applicants on the allegation made to 1st and 2nd respondents that link the applicants, in this regard because it is the duty of the state, through EFCC to investigate criminal complaints of

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this nature lodged by aggrieved persons against suspected offenders. The courts in this country have recognized the right of the state to investigate allegation of fraud. Cited case of:

FAJEMI ROKUN VS. (B. CCL) NIG. LTD (2009) 10 NWLR (PT. 77A) AT 100 PGH "6"

That the police are at liberty to investigate any allegation of commission of crime made by any person. Cited case of:

OKANU VS. C.O.P (2001) 1 CHR (CASES ON HUMAN RIGHT) 407. AT 408

More seriously, I wish to state that it is the duty of the police to investigate and arrest citizens who are suspected to have committed one offence or another **SECTION 32 (1) (C) 1979 CFRN**

The arrest of a person on reasonable suspicion of committing a criminal offence will not render the police liable for the breach of fundamental right ___ a citizen who is arrested by the police in the legitimate exercise of their duty and on ground of reasonable suspicion of having committed an offence cannot sue the police in court for the breach of his fundamental rights.

That the applicants suit lacks merit, that investigation reveal that prima facie case against the applicants has been revealed.

That an arrest serves the function of informing the person arrested and the community that allegation of crime is hanging on his neck. Cited case of:

UKIRI VS. EFCC (2018) 1 NWLR (55 AT 177) PARAS "F"

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That 1st and 2nd respondent did carryout its lawful duty in affording fair hearing to the applicants. And urged court to hold in favour of the 1st and 2nd respondents.

That applicants were granted bail the same day they came before the commission. Cited Exhibits EFCC E,F,& G. That the duty of the commission to offer the applicants bail, but it is not the duty of the commission to help them in perfecting their bail condition. Cited case of:

EDA VS. C.O.P (1982) 3 NCLR 219, EBOH JCA

That evidence has been put forth show that the applicants were granted bail and released the very same day on terms to secure their attendance whenever needed. Cited case of:

TRUCKS NIG. LTD VS. ANLOGBORO (2001) 2 NWLR (PT. 969) 159

That all freedoms are limited by state policy, no fundamental right stands above the country, state and the people. Cited case of:

BADEJO VS. MIN OF EDUCATION (1996) 8 NWLR (PT. 464) 15 AT 19 PGH "2"

That public policy requires that offenders against the law shall be brought to justice. Cited case of:

AGF VS. DAWODU (1995) 2 NWLR (PT. 380) 712 OF 714 RATIO "2"

That a courts' order cannot forbid the police from performing their normal duties and no Court will do that as that can lead to a state of

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general breakdown of law and order. No court of law can make an order capable of turning a citizen into an outlaw. Cited case of:

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NZEWI VS. C.O.P (2000) 2HRLRA 156 AT 158

That no court has the power to stop the police from investigating a crime and whether to or how it is done is a matter within the discretion of the police. For a person therefore to go to court to be shielded against criminal investigation and prosecution is an interference with powers given by the CFRN. To law officers. Cited case of:

I.G.P VS. UBAH (2015) 11 NWLR (PART 147) 405 AT 433 PARAS

"A-D"

that applicants are not entitled to any damages at all not having established any wrong against the respondents to warrant a remedy.

That the third issue as raised by the 1st and 2nd respondents, that 1st and 2nd respondents submitted that same are not legal personalities, know to law and as such cannot be sued. The question that calls for an answer is who is the chairman E.F.C.C. Abuja and head of operations, Gombe. To whom does the said nomenclature refers? Does the said reference point unequivocally can only sue a living person or legal person. Cited case of:

MAERKS LINE VS. ADDIDE LTD (2002) 11 NWLR (PART 775) P.

377 PARAS "E"

That it is a fundamental and establishment rule of law that any person, natural or artificial may sue or and be sued.

No action can be brought by or against any party other than a natural person expressly or impliedly, unless statute, rules of court or common

law has given such a person legal person under any name or a right to sue or be sued by that name. Cited case of:

UZOHO VS. N.C.P (2007) 10 NWLR (PT. 1042) PAGES 320
"PARAS" BH (C.A)

1st and 2nd respondents urged court to strike out the name of the 1st and 2nd respondents for not being legal personalities and juristic person known to our laws.

On the 4th issue as raised by the 1st and 2nd respondents that 1st and 2nd respondents submitted that the court does not have the jurisdiction to entertain this application as currently constituted. The application offends the provision of section 9.7 of sheriff and civil process act. That the 1st and 2nd respondents were served processes in Abuja and Gombe State, outside the jurisdiction of the Court, respectively. Cited case of:

OWNERS OF THE MV ARABELLA VS. N.A.I.C (2008) 11 NWLR
(PT. 1097) 182, PAGES 207, PARAS "A – D" PARAS "B-E

That on the reliefs sought by the applicants, that injunctive reliefs are usually ordered to preserve the RES or maintain the status quo of the three types of injunction usually granted. i.e interim, interlocutory and perpetual injunctions, the last one has a stamp of finality. Thus it is usually granted only where a party has successfully proved his case on the balance of probability. It should not be granted on were speculation. 1st and 2nd respondents submitted that the alleged infractions complained against are speculative. Cited case of:

MUNIYAS (NIG) LTD VS. ASHafa (2014) (PART 1242) 85 AT
107 PARAS B – H 109 PARAS "D – E"

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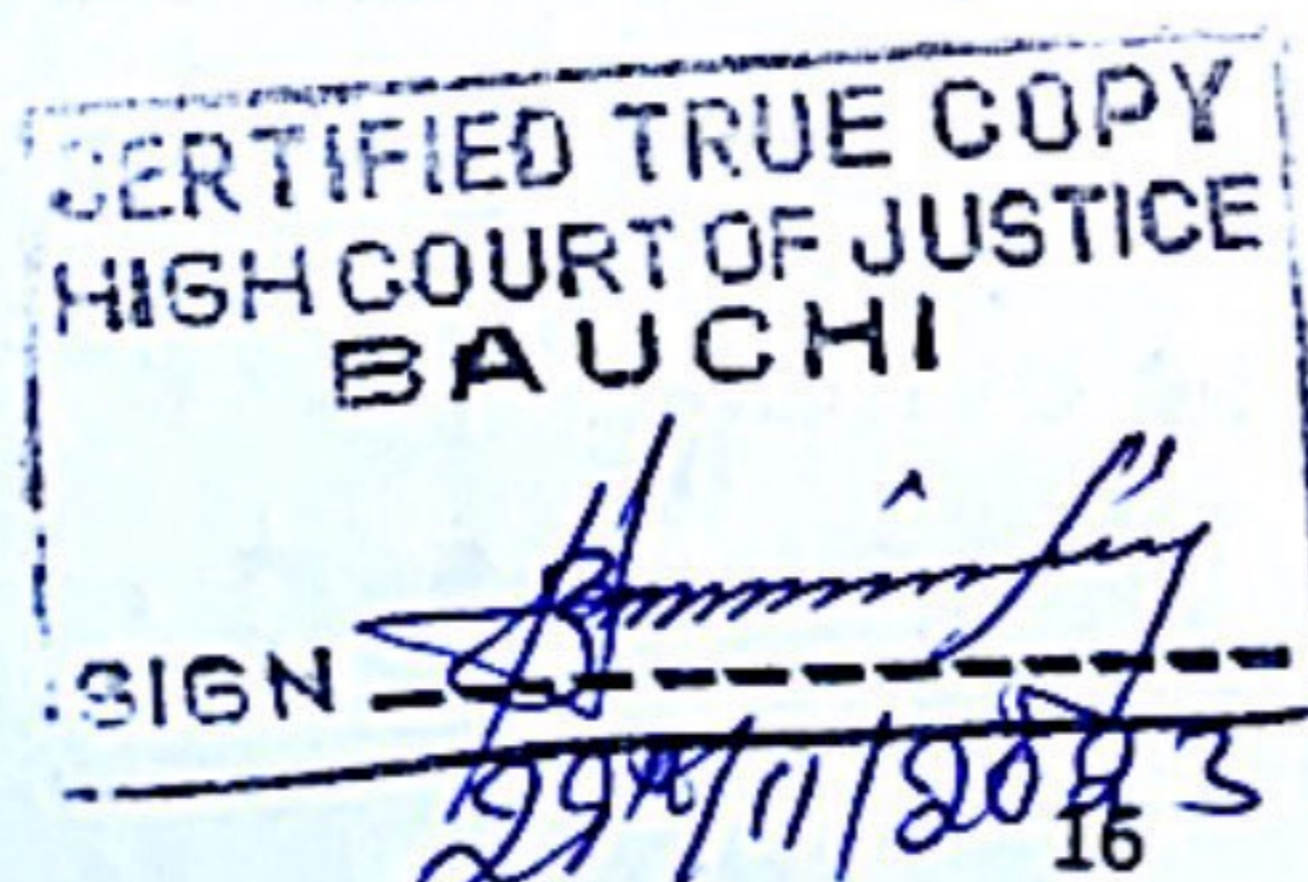
That 1st and 2nd respondents said the applicants has not placed any material before the court to warrant the grant of a perpetual injunction. The court lacks the power to restraint he police by injunction from investigation of criminal complaints under **SECTION 4 OF THE POLICE ACT CITED CASE OF: T.G.P VS. UBAH (SUPRA) P.450 PARAS "B – C"**

That the 3rd respondents' written address raised the following issues for determination thus:

1. Whether considering the facts and circumstances before court the applicant placed any evidence to show his fundamental human right **UNDER SECTION 34, 35, 41 AND 44 CFRN** (as amended) and Africans charter for human and people's rights have been violated by the respondents.
2. Whether the 1st and 2nd respondents, arrested, detained, intimidated and exported the applicant of the instance of the 3rd respondent.

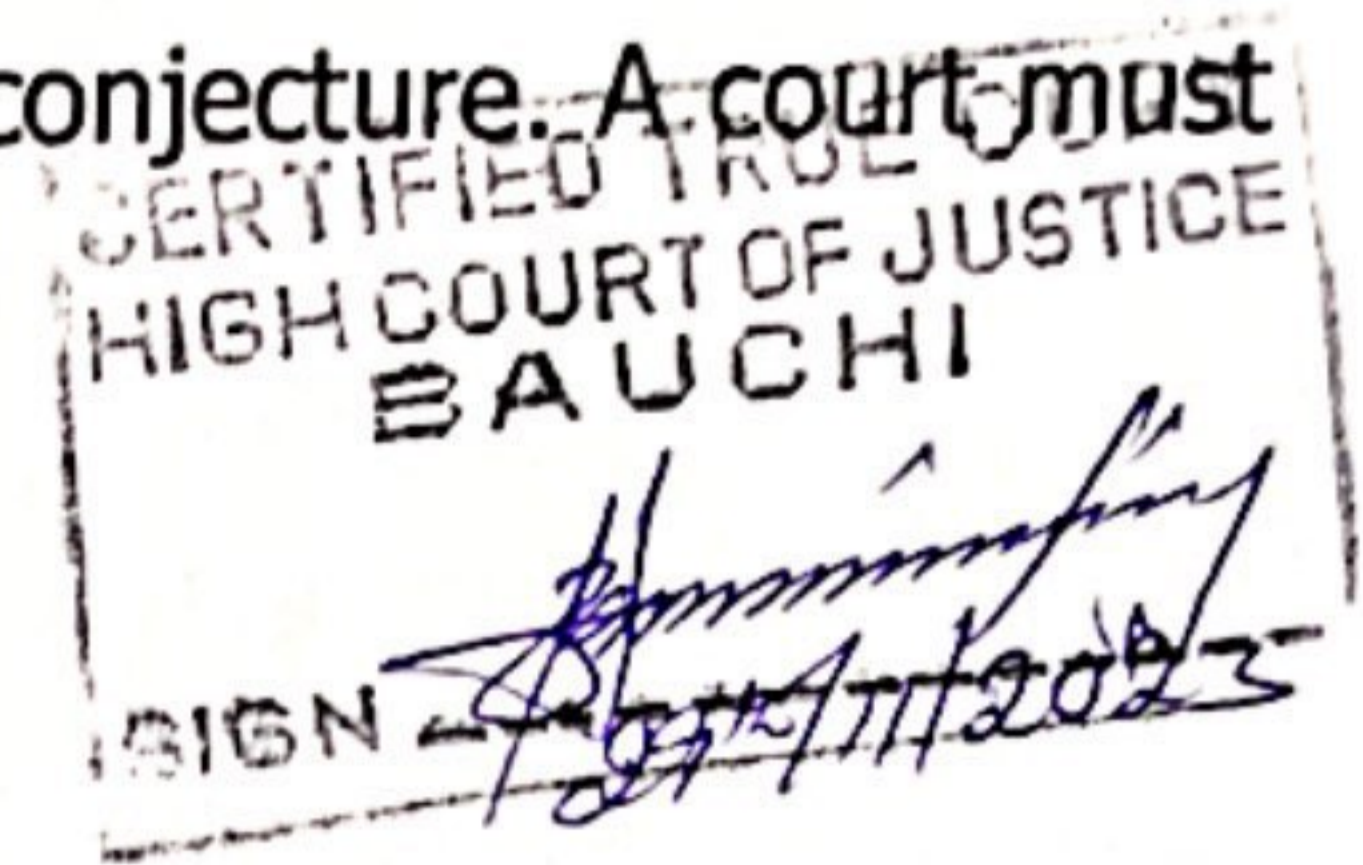
That the two issues to be answered in the negative, and against the applicants, that the burden of proof in a suit or proceeding lies on that person who would fail if no evidence at all were given on either side in other words, the party who asserts a fact has a burden to prove the existence of such facts. Cited case of:

FATE MIROKUN VS. C.B NIG. LTD (2009) 5 NWLR (PT. 1135) 588 AT 614 – 615 PARAS B – A SECTION 136, 137 E. ACT CP "E" 14, 2011



That the applicants have not show any means of evidence that they were arrested, detained, embraced and humiliated by the 1st and 2nd respondents at the instance of the 3rd respondent.

That a court has no jurisdiction to speculate on conjecture. A court must confine itself to the evidence.



Cited case of:

EJEZIE VS. ANUWU (2008) 12 NWLR (PT. 1101) 446 AT P. 490

PARAS

That the 3rd respondent as a citizen of Nigeria has the legal right to report to the 1st and 2nd respondents. The complain of fraudulently selling of URAT MEMORIAL SEC. SCHOOL land by the applicants. Referred court to exhibit HTB, the transaction at the said land was a fraudulent financial transaction which the 3rd respondent ahs inherent power and rights to report the fraud to the 1st and 2nd respondents.

Cited case of:

UDO VS. ESSIEN (2015) 5 NWLR (PT. 1451) AT PAGES 103 – 104 PARAS "F – G" AND "A – B".

That the 1st and 2nd respondent exercised their powers statutorily by inviting the applicants who confessed selling the land of URAT MEMORIAL SEC. SCHOOL to one Mustapha Abdullahi and others for investigations and urged court to so hold.

The **SECTION 35 (1) (C) CFRN 1999 (AS AMENDED)** that fundamental rights of persons, guaranteed under the CFRN can be curtailed where the applicants are suspected of having committed an offence or a crime. Cited case of:

USMAN VS. E.F.C.C (2018) LPELR 446778 (A)



That 3rd respondent said, the applicants claimed the sum of N500,000.00k from the respondents on the ground that they would not have spent the said sum if not for the action of the respondents. 3rd respondent submitted that, it is unethical and affront to public policy for a party to pass on the burden of solicitors fees to the other party. Cited case of:

GUINNESS (NIG) PLC VS. VIWOKE (2000) 15 NWLR (PT. 689)

135

S.P.D.C NIG VS. OKONEDO (2008) 9 NWLR (PT. 1091) 85 AT 92

R "9"

That after a careful perusal and securitization of the applicants' affidavits evidences and the 1st, 2nd and 3rd respondents affidavits and their various written address, court has hereby formulated issues for determinations thus:

1. Whether the issue before the court is that of fundamental right enforcement proceedings or the dispute in land related matter in disguise, as this one.
2. Whether or not leave of court has to be sought before service outside jurisdiction of the court.
3. Whether or not applicants rights were violated as enshrined in the fundamental rights enforcement procedure rules, or 1st and 2nd respondents are performing their constitutional duties.

That first issue as raised by the court that looking at the three applicants affidavits evidence, and the third respondent's affidavits evidences and

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their respective written address court came to the conclusion, most especially exhibits, A, the judgment of high court of justice Bauchi State, dated the 05/05/2003, presided over by Honourable Justice Ibrahim Mohammed Zango as he then was, but none of the parties in this suit were there.

That exhibits "B" dated the 23/07/2003, Federal Ministry of Works and Housing, offer of lease of plot at Bauchi to URAT MEMORIAL SECONDARY SCHOOL, size of plot of 10,000m². That exhibits "C" attached to the 3 applicants' affidavit dated the 23/12/20....., no date judgment enrollment order of justice Ibrahim Moh'd Zango (OFR).

That exhibit "D" dated the 18/11/2018 on F.L.R with the Chief Magistrate Court Bauchi, with number CMCBH/248/19/2018.

That exhibit "E", dated the 31/01/2019, a lease to file a criminal direct complaint against the 3rd respondent and Dahiru Mohammed.

That exhibit "F" dated the 19/02/2019 a petition to the commissioner of police Bauchi State command.

That exhibit "G" is the receipt of the Magaji and Associates dated the 30/09/2019 for the sum of N500,000.00k from issued to Hashimu Shehu S. Bauchi.

That Court duely observed the affidavits evidences of the applicants from paragraphs 4 to paragraphs 28, is all talking of the land in dispute, that the 3rd respondents affidavits evidences in support of the counter affidavits dated the 25/10/2019. Itstrain paragraph 5, to paragraphs 54 is taking about the land in dispute, so this court, believed that what has been brought to it in disguise is an issue of land, dispute to a title to the

land on question, but hiding under the enforcement of fundamental right - procedure rules.

That the second issue as raised by the court, that the 1st and 2nd respondents written address dated raised the forth issue about the service out of jurisdiction thus, and cited **SECTION 97 OF THE SHERIFFS AND CIVIL PROCESS ACT** that every writ of summons for service out of the state in which it is issued must to in addition to any endorsement of notice required by law of such state, have endorsed thereon, a notice indicating that the summons is to be served out of the state, and in which state it is to be served on failure to endorse the requires notice on a writ of summons for service outside a state where it was issued is not a were irregularity but a fundamental defect. That renders the writ in competent and does to the root of the jurisdiction and affect the competence of the court. Cited case of:

ARABELLA VS. N.A.I.C (2008) 11 NWLR (PT. 1097) 182, PAGES 207, PARAS 207, PARAS "A - D" "B - E"

That the 1st and 2nd respondents were served processes in Abuja and Gombe State outside the jurisdiction of the court respectively.

That looking at this issue critically and by the processes filed in this court frankly and honestly speaking no process has been filed to seek the leave of Court to serve processes outside the jurisdiction of the court. Even as of now the court is speaking no such leave. Court decided this second issue in favour of the 1st and 2nd respondents. It goes to say that court has no jurisdiction to entertain this matter unless and until leave of court is first sought and obtained pursuant to section 97 of the Sheriffs and Civil process Act Laws of the Federation of Nigeria.

That the third issue as raised by the court that looking at all the circumstances of this case, together with the exhibits earlier analysed as in issue number one raised by the court, the issue is more of dispute to land in disgnize not fundamental rights enforcement procedure rules.

That the applicant's written address dated the 30/09/2019, cited section 34 (1) CFRN 1999 as amended that:

Every individual is envied to respect for the dignity of his person and accordingly.

(A) no person shall be subjected to torture or to inhuman or degrading treatment. Cited case of:

DOKUBO ASARI VS. FRN (2007) 30 WRN 1 @ 13 RATIO "11"

That failure to arraign the applicants before a competent court within the frame allowed by **SECTION 35 (4) AND (5) 1999 CFRN**, within reasonable time of one day where a court is within 40 kilometres radius or 2 days if not that Bauchi town has over 11, High Courts, within less than 500 metres from the respondents office and over 15 magistrates court within a radius of less than 4 kilometers, from the camp. That a respondents have no excuse what so ever for not complying with a constitutional provision other than their own arrogance and belief of superiority to everyone and being untouchable.

That the written address as the 1st and 2nd respondent dated the 18/10/2019, said that police officers are empowered to investigate any criminal allegation or complaint, they may take any action they deem fit to take upon investigation. They may arrest, detail prosecute, an alleged offence by virtue of **SECTION 4 OF THE POLICE ACT**, and **SECTION**

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35 (1) (C) CFRN 1999 in the legitimate discharge of their duties, they cannot be sued. Cited case of:

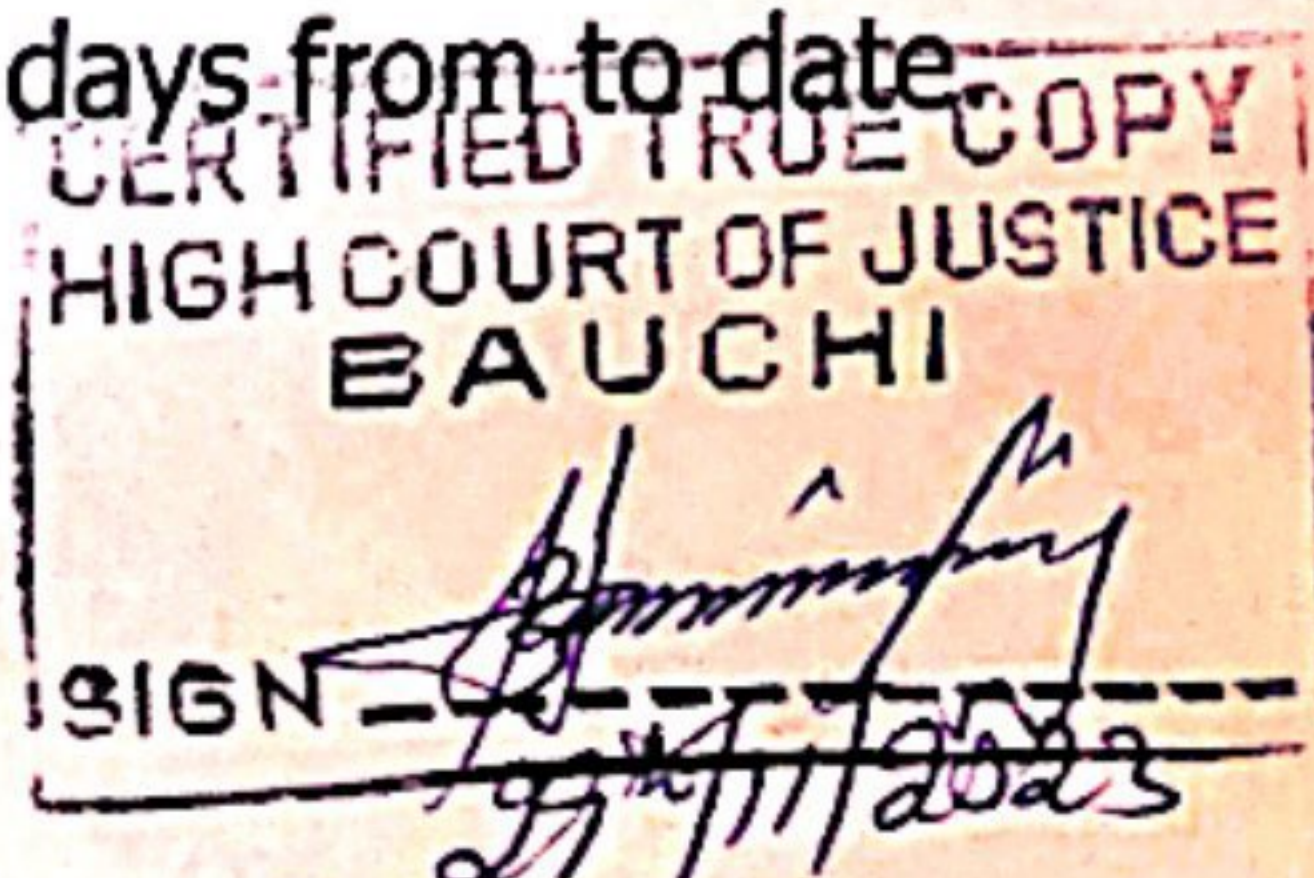
ATAKPA VS. EBETOR (2015) 3 NWLR (PT. 1447) 549 AT PAGES 574. PARAS "F – G"

"Subject to the provisions of this act, an officer of the commission when investigating or prosecuting a case under this act, shall have all the powers and imovuites of a police officer under the police act and any other law conferring power on the police or empowering and protecting law enforcement agencies".

That court having securitized both parties affidavits evidences and the written addresses and exhibits attached on both sides, that the 1st and 2nd respondents has been detaining the applicant for much larger than necessary for an investigation. That the right to investigate and prosecute cannot last in perpetuality that there must be an end to all investigation not to hold someone for an endless time. But this very court is not saying that the 1st and 2nd respondent does not have powers to investigate and prosecute, arrest and detain, that from October, 2019 to March, 2020 is too long a time for investigation, lest than prosecute if necessarily.

With the light of the above mentioned reasons court has hereby refused the application for the enforcement of fundamental rights of the three applicants.

Appeals 90 days from to date.



LAMIDO KABIR UMAR

We shall be asking for cost on behalf of the 3rd respondent who is always in court a token sum of N1.2 Million. Since this frivolous case was filed, 3rd respondent has been coming leaving every engagements that cannot be satisfied in monetary sums. We will be asking court to grant our application that justice is due completely.

K.J AJAH

For the Applicants

Ajah – C – Sorry for coming late to the Court.

Ajah – C – We most appreciate the judgment, we do not enveade to a dime. On the part of the 1st and 2nd respondents they were sued in their official capacity. They are employees of an Agency Court great nation and in services of each and every citizen, category which the judgement debtor failed in it will amount to double jeopardy for court to award cost in favour of these officials who are being paid in the coppers of taxpayers which judgment debtor fell into was well. My learned colleague listed a lot of expenses, flights, attendances, ridding a care, he has to furnish court with facts that Chairman EFCC was here. Neither have they furnished us with and out of pocked expenses.

Even my learned fraud is engaging this statutory, gratefulness and the services from the coffers of taxpayers, judgment debtor inclusive. Therefore the need for cost does not arise. We urged court to so hold.

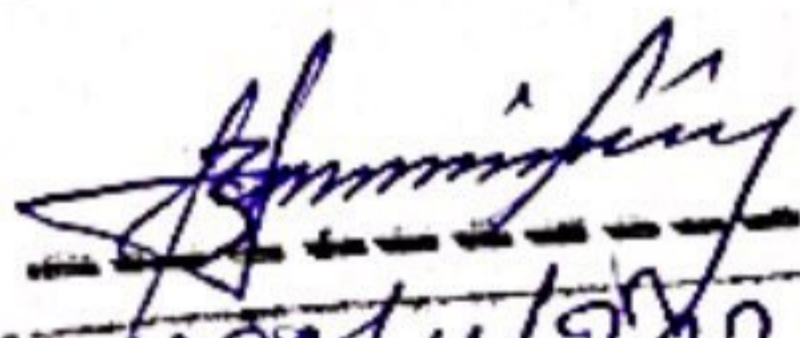
On the part of the 3rd respondent our position is still the same we do not eaneede to a time.

Judgment debtor have put the law first by approaching the court to enforce their constitutionally guaranteed right. And despite the fact we

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appreciate the judgment of the court. It will amount to double jeopardy on us, for the judgment debtor to suffer in pursuit of their right. They have not shown court any material facts, to warrant them being granted any amount whatsoever we most humbly submit, that were of the parties is entitled to cost and urged court to so hold.

Case stood down for ruling.

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SIGN 
29th 11/2023

25 09 2020

HASHIMU SHEHU S. BAUCHI & 1 OTHER

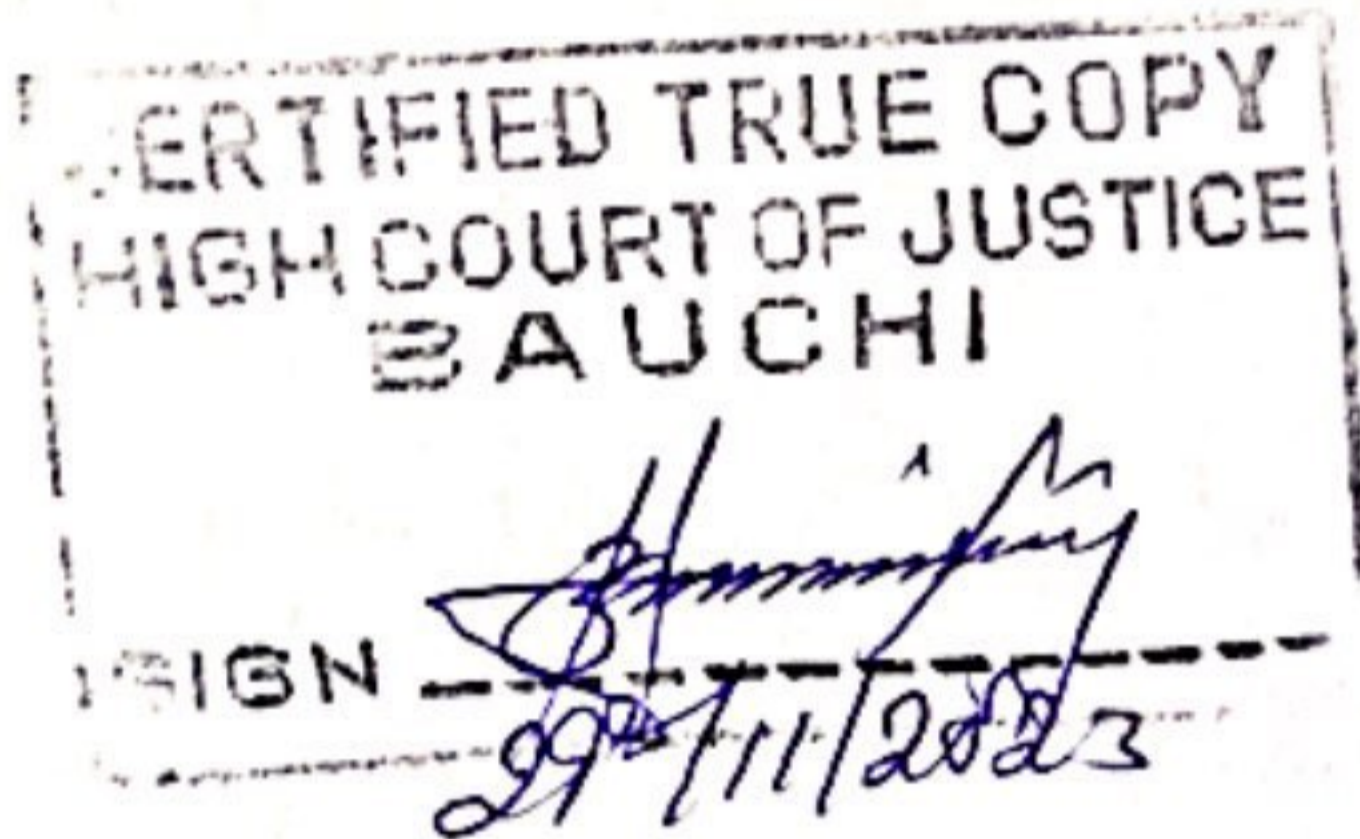
VS.

THE CHAIRMAN E.F.C.C ABUJA, & 2 OTHERS

BA/ /

Applicants:

Respondents:



RULING

That upon an oral application by the case of N5,000,000.00k on behalf of the Chairman E.F.C.C, Abuja, and three million naira, for the E.F.C.C Zonal Office, Gombe and cost of N960,000.00k for the counsel appearing for E.F.C.C upon to times, and general damages to the sum of N500,000.00k for the 1st and 2nd respondents against the applicants. Since the 10/03/2023 as applied by Okeimeze Esq counsel to the 1st and 2nd respondents in this matter.

That, Galadima Esq, counsel to the 3rd respondent, asked for the cost of a token sum of N1.2 Million for the frivolous application by the applicants.

That Ajah Esq, counsel to the applicants said he is not conceding to any dime court. That on the part of the 1st and 2nd respondents they were sued in their official, they are employees of the government agency of our great nation.

That Ajah Esq, said that it will amount to double jeopardy for court to award cost favour of these officials who are being paid in the coffers of taxpayers which judgment debtor failed into as well.

That 1st and 2nd respondents are enjoying services of the taxpayers money the judgment debtor inclusive.

That court having carefully perused observed both counsel applications and responses and court has hereby scrutinized the agreements thus:

That from 14/10/2019, to the date of 10/03/2020, there were seven dates taken all at the instances of the applicants that the respondents have to put appearances through counsels and logistics from their various destinations to the court, all in all effort to see that justice is manifestly seen to be deem, and is being done to both parties.

That also court gave its reasons for the enforcement of fundamental rights of the applicant to led to no being enforced by this court. That court has hereby awarded cost to the 1st, 2nd and 3rd respondents but reduced the cost as being on the high side to:

1. Cost awarded in favour of the 1st and 2nd respondents to the sum of Five Hundred Thousand Naira all as against the sum of N8,460,000.00k against all applicants.
2. That court awarded cost in favour of the 3rd respondent against all the applicants in the sum of N250,000.00k.

Appeal 14 days from to date.

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10/1/20

Judge: Lamido K. Umar

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