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IN THE FEDERAL HIGH COURT OF NIGERIA
IN THE LAGOS JUDICIAL DIVISION
HOLDEN AT LAGOS
ON MONDAY THE 16TH DAY OF OCTOBER 2023
BEFORE HIS LORDSHIP, HON. JUSTICE C. J. ANEKE.
JUDGE.

SUIT NO: FHC/L/CS/363/2022.

BETWEEN:

1. DR. (MRS) SEINYE PETERBA LULU-BRIGGS - APPLICANTS
2. MONI PULO LIMITED

AND

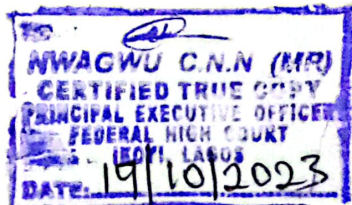
1. ECONOMIC AND FINANCIAL CRIMES
COMMISSION (EFCC)
2. ATTORNEY-GENERAL OF THE FEDERATION AND - RESPONDENTS
MINISTER OF JUSTICE
3. MRS. OBUEKWE NUALA NWAObUAKU
4. OBUEKWE EMEKA EKEMJIKA
(Sued on behalf of the Estate of
OBUEKWE DAN (A.K.A. OBUEKWE DANIEL OGUGUO))

JUDGMENT

This is an action by the Applicants seeking enforcement of their fundamental rights in terms of the reliefs set out both in their Originating Motion and in their Statement accompanying their application dated and filed on the 28th day of February 2022 praying the Honourable Court for the following reliefs:

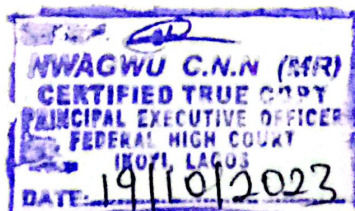
1. *"A DECLARATION that the continuous, incessant, and unending investigation of the shareholding of the 2nd Applicant, Moni Pulo Limited since 2007 and the unending invitation and the continuous threat to arrest and detain the Applicant upon the petitions written on behalf and at the behest of the 3rd and 4th Respondents, using the coercive and penal powers of the 1st Respondent in respect of the alleged claim to 30%*

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shareholding or any other percentage in Moni Pulo Limited, and which issue of shareholding of Dan Obuekwe has been fully settled and determined by the judgment in Suit No FHC/PH/CP/02/2012 and now subject of Suit No FHC/CS/CA/16/2021 is unlawful and constitutes a breach of the Applicants' fundamental rights.


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2. A DECLARATION that the purported claim to any shareholding in the 1st Applicant by the 3rd and 4th Respondents is purely a civil/contractual dispute and that the continuous harassment of the Applicants on the basis of such claim to the shares of the 1st Applicant by the 3rd and 4th Respondents which is fully settled by the Judgment in Suit No. PHC/PH/CP/2/2012 and now subject of Suit No FHC/CA/CS/16/2021 constitutes an abuse of power by the 1st Respondent and a breach of the Applicants' fundamental rights.
 3. A DECLARATION that the incessant invitation, arrest and interrogation of the 1st Applicant in respect of the shareholding structure and interest in the 2nd Applicant and which is the subject matter of several judgments in Suit Nos: FHC/L/CS/508/1998, FHC/ABJ/345/2007: FHC/PH/CP/02/2012 and Suit No FHC/CA/CS/16/2021 now pending before the Calabar Division of the Federal High Court is wrongful, oppressive, arbitrary and that same constitutes a flagrant violation of 1st Applicant's rights to the dignity of her human person, right to personal liberty, right to fair hearing, right to own immovable property and freedom of movement as respectively enshrined and guaranteed by Sections 34, 35, 36, 41 and 44 of the Constitution of the Federal Republic of Nigeria, 1999 (as amended) and Articles 5, 6 and 7 of the African Charter on Human and Peoples' Rights (Ratification and Enforcement) Act Cap 10 LFN, 1990 AND, therefore, unconstitutional and illegal.



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4. A DECLARATION that the incessant and unabated invitation, harassment, and arrest of the shareholders, directors, and personnel of the 2nd Applicant, including the 1st Applicant or any other staff of the 2nd Applicant by the officers and/or operatives of the 1st Respondent which began in 2007 and reopened in 2016 till date by the Respondent (sic) is vindictive oppressive and same constitute a flagrant violation of Applicants' rights to personal liberty, fair hearing and freedom of movement as respectively provided and enshrined under Sections 34, 35, 36 & 41 of the Constitution of the Federal Republic of Nigeria 1999 (as amended) and Articles 5, 6, 7 and 12 African Charter on Human and Peoples Rights (Ratification and Enforcement) Act Cap 10 LFN, 1990 and, therefore, unconstitutional and illegal.
5. A DECLARATION that the threat of arrest of the 1st Applicant or any other shareholder and/or director of the 2nd Applicant by the 1st Respondent in respect of the shareholding structure and interest in the 2nd Applicant and which is the subject matter of several judgments in Suit Nos. FHC/L/CS/568/1998, FHC/ABJ/345/2007, FHC/PH/CP/02/2012 and Suit No, FHC/CA/CS/16/2021 now pending before the Calabar Division of the Federal High Court is in flagrant breach of the Applicants' right to fair hearing as guaranteed under Section 36 of Constitution of the Federal Republic of Nigeria, 1999 (as amended).
6. A DECLARATION that the persistent and constituent harassment of the Applicants and the directors and employees of the 2nd Applicant from 2016 till date with series of invitation letters up to the ones dated 11th October 2021; 22nd October 2021 and 10th November, 2021 and the freezing of the accounts of the 2nd Applicant domiciled with Access Bank

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NWAGWU C.N.N (MPS)
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PRINCIPAL EXECUTIVE OFFICER
FEDERAL HIGH COURT
DATE: 19/10/2023

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Plc. or any other bank in Nigeria violates the right of the Applicants' right to own property and to that extent, unconstitutional.

7. A DECLARATION that the freezing of the accounts of the Applicants or the placing of same on a "Post No Debit" (PND), or the restriction placed on the said accounts on the basis of the purported investigation in respect of the purported investigation of the shareholding structure in the 2nd Applicant constitutes an abuse of powers and that same is in violation of the fundamental rights of the Applicants as enshrined and preserved under Chapter IV of the Constitution of the Federal Republic of Nigeria, 1999 (as amended) and the African Charter on Human and Peoples' Rights (Ratification and Enforcement) Act Cap 10 LFN. 1990.

8. A DECLARATION that the 1st Respondent's investigation of the share transactions in the 2nd Applicant, a private company without any government interest, constitutes a breach of the proprietary right of the Applicants as guaranteed by the Constitution of the Federal Republic of Nigeria and to that extent, such investigation is null and void.

9. AN ORDER lifting the restriction, or the Post No Debit Order placed on the account numbers 0016861222 and 0002841027 both domiciled with Access Bank Plc. or any other bank account belonging to the Applicants.

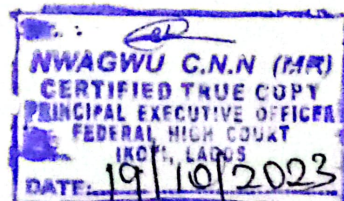
10. AN ORDER of perpetual injunction restraining the Respondents whether by themselves, their officers, agents, operatives, personnel or acting through any person or persons howsoever or any other security agency of the Federal Government from further inviting, harassing, arresting, interrogating or detaining the 1st Applicant or any of the staff or personnel of the 2nd Applicant in respect of the alleged entitlement/claim of the late Dan Obuekwe and his estate to the ownership of shares in the 2nd Applicant and/or the right to joint



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ownership of and share of the benefits or proceeds of OPL230/OML 114 which are subject of the Judicial processes and judgments of courts of competent jurisdiction in Suit Nos.. FHC/ABJ/CS/345/2007, FHC/PH/CP/02/2012, FHC/CA/CS/16/2021, and subject of Suit No FHC/CA/CS/16/2021 now pending before the Calabar Division of the Federal High Court.

11. AN ORDER of perpetual injunction restraining the Respondents or any other agency of the Federal Government of Nigeria from restricting the freedom or liberty of the 1st Applicant and any staff, personnel, employee, or director of the 2nd Applicant in relation to the shares and shareholding structure of the 2nd Applicant.
12. AN ORDER of perpetual injunction restraining the Respondents or any agency of the Federal Republic of Nigeria from arresting, interrogating, and interfering with the liberty of the Applicants and their personnel on the basis of the alleged entitlement to the sum of \$850,000,000.00 (Eight Hundred Fifty Million Dollars) or any other sum for that matter and which claim is premised on the alleged interest and entitlement of the late Dan Obuekwe which was dismissed by the Federal High Court, Port Harcourt in its judgment in Suit No. FHC/PH/CP/02/2012 and subject of Suit No. FHC/CA/CS/16/2021 now pending before the Calabar Division of the Federal High Court.
13. AN ORDER preserving the fundamental rights of the Applicants against the consistent assault and attack by the 1st Respondent on matters relating to the shares and shareholding structure of the 2nd Applicant.
14. The sum of N2,000,000,000.00 (Two Billion Naira) against the Respondents jointly and severally on the footing of aggravated and/or



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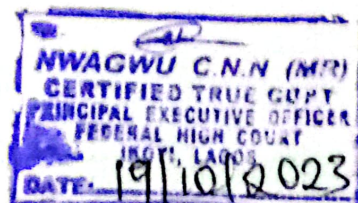
exemplary damages for the violation of the Applicants' fundamental rights.

15. AN ORDER mandating the Respondents to render a public apology to the Applicants to be published in two nationally circulated newspapers for the brazen violation of the Applicants' fundamental rights."

The Applicants' application is supported by an affidavit of 60 paragraphs with 43 exhibits attached thereto, sworn to by one MRS. IJEOMA EMMA-NWEYE, the Head of the Office of the Executive Management of the 2nd Applicant. The Applicants' application is also supported by a Statement setting out the names, addresses, and descriptions of the Applicants, the reliefs sought by the Applicants, and the grounds upon which the reliefs are sought. There is also a written address of learned Counsel dated and filed on the 23rd day of February 2022 wherein two (2) issues were formulated for determination, to wit:

- i. "Whether the persistent and consistent invitation, arrest, interrogation and harassment of the Applicants on the basis of the alleged monetary claim by the late Dan Obuekwe or his successors-in-title (3rd and 4th Respondents), and which are subject matter of the judicial processes and judgment of courts of competent jurisdiction is constitutional and not in violation of the Applicants' fundamental rights as enshrined in the 1999 Constitution (as amended).*
- ii. Considering the entire circumstances of this case, whether the Applicants are not entitled to aggravated/exemplary damages."*

On issue i, the Applicants submitted that they have demonstrated that the provisions of the African Charter on Human and Peoples Rights and Sections 34, 35, and 36 were breached by the Respondents. It was submitted that the averments in the supporting affidavit clearly establish the fact that the subject



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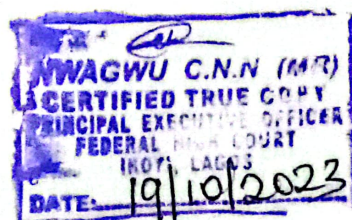
of the Respondents' investigation is purely a civil/commercial dispute as to the ownership of shares in the 2nd Applicant. The Court was referred to the cases of **NAU v. NWAFOR (1999) 1 NWLR (Pt. 585) 116 at 136-137 paragraph H-C; FRN v. IFEGWU (2003) 15 NWLR (Pt. 842) 113 at 214 C-H at Page 184, Paras B-H; Sections 6, 7, 46 of the Economic and Financial Crimes Commission (Establishment) Act, 2004.**

It was contended that it is imperative for criminal investigating agencies like the 1st Respondent not to get involved in private commercial disputes between private citizens relying on the cases of **JIM-JAJA v. COP (2011) 2 NWLR (Pt. 1231) 375; DIAMOND BANK PLC v. OPARA & ORS (2018) 7 NWLR (Pt. 1617) 92 at 114.** It was further contended that the unlawful freezing of the accounts of the Applicants without recourse to the Court is ultra vires the statutory powers of the 1st Respondents, and a violation of the due process of law. The Court was referred to the case of **GTB v. ADEDAMOLA (2019) 5 NWLR (Pt. 1664) 30 at 4s Paras. E-G.**

It was submitted that the Respondents have not made out any case against the Applicants fifteen (15) years after the commencement of their investigation in 2007. It was further submitted that there is no justification for the frequent invitations, arrest, and interrogation of any of the Applicants for the purpose of fishing for evidence to implicate the Applicants. The Court was referred to Section 41 of the Constitution of the Federal Republic of Nigeria, 1999 (as amended) and Article 12 of the African Charter on Human and Peoples' Rights.

In all, this Court was urged to resolve the issue in favour of the Applicants.

On issue ii, the Applicants submitted that the instant application is an appropriate case to award damages against the Respondents who breached the



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rights of the Applicants. The Court was referred to the cases of **ABN LTD v. AKABUEZE (1997) 6 NWLR (Pt. 509) 374 at 406**; **SHGABA ABDULRAHMAN DARMAN v. MINISTER OF INTERNAL AFFAIRS (1981) 2 NCLR, 459 at 460 and 520**.

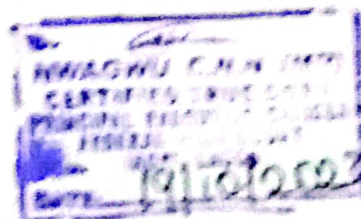
The Respondents who were duly served with the Originating Processes in the matter as well as Hearing Notices as ordered by the Honourable Court did not file any response to the Applicants' Originating Motion.

Having carefully summarized the submissions of the Applicants, it is my view that the sole issue which arises for determination is:

"Whether the Applicants fundamental rights guaranteed under Sections 34, 35, 36, 41 and 44 of the 1999 Constitution (as amended) have been infringed upon by the Respondents?"

The Applicants herein are seeking the enforcement of their fundamental rights to dignity of human person, personal liberty, fair hearing, to own immovable property and freedom of movement guaranteed under Sections 34, 35, 36, 41 and 44 of the Constitution of the Federal Republic of Nigeria, 1999 (as amended) which were allegedly breached by the 1st Respondent at the behest of the 3rd and 4th Respondents. These assertions as borne out by the processes filed by the Applicants have not been controverted and/or rebutted by any of the Respondents and the law is quite settled that facts in an affidavit not challenged, contradicted, and/or controverted by party are deemed admitted by him unless such facts on the face of them will lead to absurdity if accepted as being the truth of what they try to establish. See the cases of **BADEJO v. FEDERAL MINISTRY OF EDUCATION (1996) 8 NWLR (PT. 464) 15 at 42** and **OGOJIOFOR v. OGOJIOFOR (2002) 12 NWLR (PT. 780) 171**.

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From the totality of the affidavit evidence placed before this Court it is clear that:

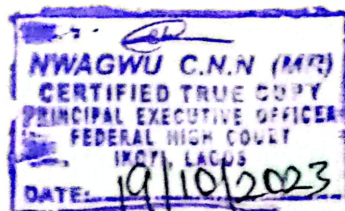
- a. The 3rd and 4th Respondents filed several reports of alleged fraudulent conduct (in respect their claim to 30% shareholding purportedly belonging to the Estate of Late Dan Obuekwe in Moni Pulo Limited) against the Applicants and were effectively the controlling and directing mind of the actions of the 1st Respondent.
- b. The 1st Respondent has continued to incessantly interrogate the Applicants over the said shareholding, which subject matter has been determined by this Court in *Suit No: FHC/PH/CP/02/2012*.
- c. That the 1st Respondent placed a Post-No-Debit (PND) on Accounts Numbers 0016861222 and 0002841027 domiciled in Access Bank Plc. belonging to the Applicants without any valid Court order.

See Paragraphs 43, 44, 45, 46, 47, 48, 49 and 50 of the Applicants' affidavit in support of their instant Originating Motion.

In the case of *ABDULLAHI v. BUHARI (2004) LPELR- 11257 (CA)*, the Court of Appeal, per JEGA, JCA, (of the blessed memory) held thus:

"The duty of the Police is as enumerated in the Police Act. They do not include debt collection. What my learned brothers of this Court have said so loudly but which has gone unheeded and which I will reiterate nonetheless is that the Police has no business in the resolution of purely civil matters. It does not make a difference what colouration the complainant gives to it, '419', cheating, name it. The Police have a responsibility to investigate a criminal complaint. Where, however, as in this case, it is clear that it is a purely civil transaction, the Police will do well not to allow themselves be dragged into it even if the complainant

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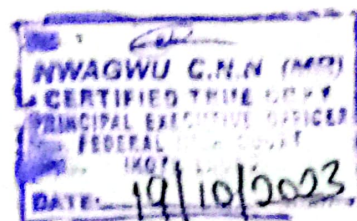


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has tagged it 'advance fee fraud'. This Court gave this warning very succinctly in the case of *ANOGWIE & ORS v. ODOM & ORS (2016) per OHO, JCA*, thus: "... the invitation of the Police to intervene in a matter that is purely civil in nature cannot be justified under any circumstances. The duties of the Police as provided under Section 4 of the *POLICE ACT, Cap 359 LFN 1990* does not include the settlement of civil disputes or the collection of debts or enforcement of civil agreements between parties. The mere fact that the Police are usually invited into just about every matter under the sun is no justification to get the Police involved in the resolution of civil disputes. The Police has recently held itself out as a responsible law enforcement organisation should be seen to live up to its billings in quickly turning down matters not statutorily assigned to it so as to avoid embarrassments of matters of this nature. There are usually dire consequences at every turn of event, in the event of things of this nature happening. The position is and has always been that private individual who uses the Police to settle a private score, would himself be liable for the wrongful act of the Police."

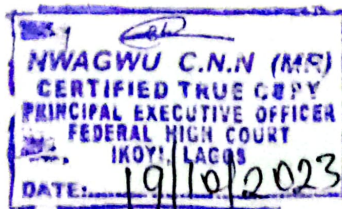
In the circumstance, it is my view that the allegations of the 3rd and 4th Respondents against the Applicants which is in respect of the ownership of shares in the 2nd Applicant is purely civil and does not fall under matters which the 1st Respondent can investigate. See Sections 6 and 7 of the *Economic and Financial Crimes Commission (Establishment) Act, Laws of the Federation of Nigeria, 2004*.

In the result, I hold that the Respondents grossly infringed on the fundamental rights of the Applicants and hereby accordingly make the following Orders –



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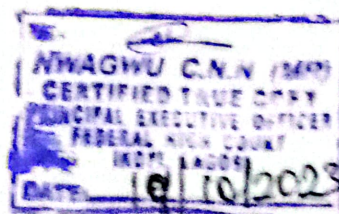
1. *"A DECLARATION that the continuous, incessant, and unending investigation of the shareholding of the 2nd Applicant, Moni Pulo Limited since 2007 and the unending invitation and the continuous threat to arrest and detain the Applicant upon the petitions written on behalf and at the behest of the 3rd and 4th Respondents, using the coercive and penal powers of the 1st Respondent in respect of the alleged claim to 30% shareholding or any other percentage in Moni Pulo Limited, and which issue of shareholding of Dan Obuekwe has been fully settled and determined by the judgment in Suit No FHC/PHICP/2/2012 and now subject of Suit No PHC/CACB/16/2021 is unlawful and constitutes a breach of the Applicants' fundamental rights.*
2. *A DECLARATION that the purported claim to any shareholding in the 1st Applicant by the 3rd and 4th Respondents is purely a civil/contractual dispute and that the continuous harassment of the Applicants on the basis of such claim to the shares of the 1st Applicant by the 3rd and 4th Respondents which is fully settled by the Judgment in Suit No. PHC/PH/CP/2/2012 and now subject of Suit No FHC/CA/CS/16/2021 constitutes an abuse of power by the 1st Respondent and a breach of the Applicants' fundamental rights.*
3. *A DECLARATION that the incessant invitation, arrest and interrogation of the 1st Applicant in respect of the shareholding structure and interest in the 2nd Applicant and which is the subject matter of several judgments in Suit Nos: FHC/L/CS/508/1998, FHC/ABJ/345/2007, FHC/PH/CP/02/2012 and Suit No FHC/CA/CS/16/2021 now pending before the Calabar Division of the Federal High Court is wrongful, oppressive, arbitrary and that same constitutes a flagrant violation of 1st Applicant's rights to the dignity of her human person, right to*



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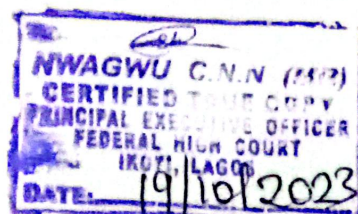
personal liberty, right to fair hearing, right to own immovable property and freedom of movement as respectively enshrined and guaranteed by Sections 34, 35, 36, 41 and 44 of the Constitution of the Federal Republic of Nigeria, 1999 (as amended) and Articles 5, 6 and 7 of the African Charter on Human and Peoples' Rights (Ratification and Enforcement) Act Cap 10 LFN, 1990 AND, therefore, unconstitutional and illegal.

4. A DECLARATION that the incessant and unabated invitation, harassment, and arrest of the shareholders, directors, and personnel of the 2nd Applicant, including the 1st Applicant or any other staff of the 2nd Applicant by the officers and/or operatives of the 1st Respondent which began in 2007 and reopened in 2016 till date by the Respondent (sic) is vindictive oppressive and same constitute a flagrant violation of Applicants' rights to personal liberty, fair hearing and freedom of movement as respectively provided and enshrined under Sections 34, 35, 36 & 41 of the Constitution of the Federal Republic of Nigeria 1999 (as amended) and Articles 5, 6, 7 and 12 African Charter on Human and Peoples Rights (Ratification and Enforcement) Act Cap 10 LFN, 1990 and, therefore, unconstitutional and legal.
5. A DECLARATION that the threat of arrest of the 1st Applicant or any other shareholder and/or director of the 2nd Applicant by the 1st Respondent in respect of the shareholding structure and interest in the 2nd Applicant and which is the subject matter of several judgments in Suit Nos. FHCAJCS/568/1998, FHC/ABJ/345/2007: FHC/PH/CP/02/2012 and Suit No, FHC/CA/CS/16/2021 now pending before the Calabar Division of the Federal High Court is in flagrant breach of the Applicants' right to fair hearing as guaranteed under Section 36 of Constitution of the Federal Republic of Nigeria, 1999 (as amended).



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6. A DECLARATION that the persistent and constituent harassment of the Applicants and the directors and employees of the 2nd Applicant from 2016 till date with series of invitation letters up to the ones dated 11th October 2021; 22nd October 2021 and 10th November, 2021 and the freezing of the accounts of the 2nd Applicant domiciled with Access Bank Plc. or any other bank in Nigeria violates the right of the Applicants' right to own property and to that extent, unconstitutional.
7. A DECLARATION that the freezing of the accounts of the Applicants or the placing of same on a "Post No Debit" (PND), or the restriction placed on the said accounts on the basis of the purported investigation in respect of the purported investigation of the shareholding structure in the 2nd Applicant constitutes an abuse of powers and that same is in violation of the fundamental rights of the Applicants as enshrined and preserved under Chapter IV of the Constitution of the Federal Republic of Nigeria, 1999 (as amended) and the African Charter on Human and Peoples' Rights (Ratification and Enforcement) Act Cap 10 LFN. 1990.
8. A DECLARATION that the 1st Respondent's investigation of the share transactions in the 2nd Applicant, a private company without any government interest, constitutes a breach of the proprietary right of the Applicants as guaranteed by the Constitution of the Federal Republic of Nigeria and to that extent, such investigation is null and void.
9. AN ORDER lifting the restriction, or the Post No Debit Order placed on the account numbers 0016861222 and 0002841027 both domiciled with Access Bank Plc. or any other bank account belonging to the Applicants.
10. AN ORDER of perpetual injunction restraining the Respondents or any other agency of the Federal Government of Nigeria from restricting the freedom or liberty of the 1st Applicant and any staff, personnel,




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employee, or director of the 2nd Applicant in relation to the shares and shareholding structure of the 2nd Applicant.

11. AN ORDER preserving the fundamental rights of the Applicants against the consistent assault and attack by the 1st Respondent on matters relating to the shares and shareholding structure of the 2nd Applicant.

12. The sum of N10,000,000.00 (Ten Million Naira) against the Respondents jointly and severally on the footing of aggravated and/or exemplary damages for the violation of the Applicants' fundamental rights".


HON. JUSTICE C. J. ANEKE
JUDGE
16TH DAY OF OCTOBER 2023.

PARTIES:

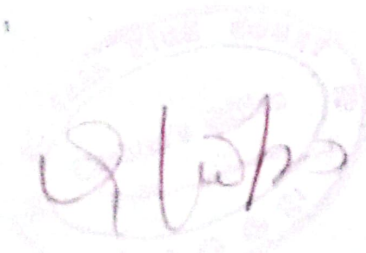
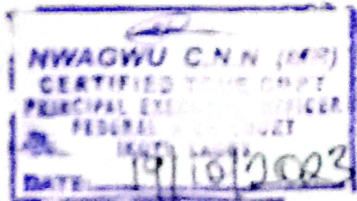
Absent in Court.

APPEARANCES:

G. UDUAFI ESQ with A. ALAGBADA and S. OKWUDIRI ESQ, for the Applicants;

G. G. GAJERE ESQ for the 1st Respondent and

No legal representation for the 2nd – 4th Respondents.



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