IN THE HIGH COURT OF JUSTICE

IN THE UBIAJA JUDICIAL DIVISION

HOLDEN AT UROMI

BEFORE HIS LORDSHIP, HON.JUSTICE P.A.AKHIHIERO,

JUDGE, ON WEDNESDAY THE

24TH DAY OCTOBER, 2018.

BETWEEN: SUIT:HUB/6/2016

1. ELDER AREWE ONOKALU
2. ELDER JAMES OMOCHIERE
3. MR. SATURDAY AREWE
4. MR. POWER GODWIN ITEKU
5. MR. JOHN OMONIJIE
(For themselves & on behalf of IdumuOgbe Quarter, Usolo, Emu)

CLAIMANTS/RESPONDENTS

A N D

1. ELDER ENEHITA OKORUWA
2. MR. OBA EBHOHON
3. MR. ANTHONY OKODUGHA
4. MR. MONDAY OTUTU
5. MR. PETER OTUTU
6. MR. AKHERE AKHAREKPEN
7. MR. JOHNSON JAMES
8. MR. PATRICK OBIYAN
9. MR. OJIEABU IMHANLUOBE
10. MR. MATTHEW OTUTU
(For themselves & on behalf of Akhiomhen Quarter, Emu.)

DEFENDANTS/APPLICANTS

RULING

This is a ruling on a Motion on Notice brought pursuant to Section 36(6) of the Constitution of Federal Republic Of Nigeria 1999 as amended, Order 37 Rules 1, 2, 3, 5 And 7 of the Edo State High Court (Civil Procedure) Rules, 2012 and pursuant to the inherent jurisdiction of this Court.

The application is praying the Court for an order restraining the Claimants/Respondents and/or their Agents, Servants, Privies and Assigns (howsoever described), from entering upon or farming on the vast piece/portion of farmland in dispute which is known to both Parties (whether it be known and referred to as ñIrioyaò or ñUkholoò in the processes in this suit) but forms part and parcel of the land in dispute in this case, located and situated at Emu, Esan South East Local Government Area, of Edo State, pending the hearing and determination of this suit.

And for any other order or such further orders as this Honourable Court may deem fit to make in the circumstances of this case.

The application is supported by a 5 paragraph affidavit and a Written Address of counsel.

Arguing the motion, the learned Counsel for the Applicant, S.E.Okoh Esq., relied on his supporting affidavit and adopted his written address as his arguments in support of the application.

In his written address, the learned counsel formulated a sole issue for determination as follows:

> ***"Whether it would serve the interest of justice for the Honourable Court to grant the Defendants/Applicants' relief as prayed on the Motion Paper?"***

Arguing the issue, counsel submitted that in the case of***: KOTOYE v. CENTRAL BANK OF NIGERIA (1989) 2 SC (Pt 1) 1 at pg 17***, the Supreme Court laid down the four conditions which an Applicant for interlocutory injunction must satisfy. He maintained that these important preconditions were as adumbrated in the earlier case of: ***OBEYA MEMORIAL HOSPITAL & ANOR v. ATTORNEY GENERAL OF THE FEDERATION & ANOR (1987) 3 NWLR (60) 325.*** He thereafter elucidated on the four conditions *seriatim*.

1. THE EXISTENCE OF A TRIALABLE ISSUE:

Under this requirement, he submitted that the Defendants/Applicants are not required to show that they have a prima facie case or a probability of success, but that there is a substantial issue to be tried. He submitted that in this case, the Defendants/Applicants have substantial issues to be tried with a real possibility of success.

Counsel submitted that the Defendants/Applicantsô case raises serious questions which are to be resolved at the hearing of the substantive suit. He identified some of the issues as follows:

(i) Whether the Claimant was right when he entered the Defendantôs land and the building inside, to destroy the roof and chase away the tenants without an order of a Court of competent jurisdiction?;
(ii) Whether the land claimed by the Claimant is not the same as the one the Court already delivered two judgments?;
(iii) Whether the Defendant is not entitled to damages for the acts or omission of Claimants, their agents, thugs, assigns, privies, servants, workmen, foremen, or by whatever names so called for their unlawful conducts on the land in dispute?;

Learned counsel submitted that the answers to these questions can only be gotten at the hearing of the substantive matter, which the court cannot determine at this stage of the proceedings, as it is the Applicantôs submission that it is not permissible in law for the Respondents to connive with themselves, their agents, assigns, privies, servants, workmen, foremen, or by whatever names so called, to forcefully continue to tamper with the subject of a litigation. He referred the Court to the cases of: ***PROVOST LACOED v. EDUM (2004) 6 NWLR (870) 485; EREKU v. MILITARY GOVERNOR OF MIDWESTERN STATE OF NIGERIA (1979) 10 SC 59 and LSPDC v. BANIRE (1992) 5 NWLR (243) 60.***

Learned counsel posited that the Defendants/Applicants are only seeking the maintenance of the *status quo antebellum*, pending the hearing and determination of the substantive suit. He relied on the case of: ***ALON v. DANDRILL NIGERIA LTD (1997) 8 NWLR (517) 495 at 501***.

According to him, unless the Claimants/Respondents and his agents are restrained, they will continue to farm on the land over which this Court has given judgment in favour of the Defendants/Applicants, thus stealing practical ownership through the backdoor, and there would be nothing for the Court to decide since the conducts of the Claimants/Respondents makes them judges in their own cases.

Learned counsel referred the Court to the case of: ***EFFIOM v. IRONBAR (2000) 3 NWLR (650) 545 at 563*** where the Court of Appeal per Opene JCA stated thus:

> ***"The Court will not allow either of the parties to present it with a fait accompli. It is therefore the duty of the court to see that its orders are not rendered nugatory. When therefore the conduct of one of the parties has the tendency of foisting on the court a fait accompli, the court may make an order which will have the effect of returning the parties to the original status quo pending the determination of the suit."***

He submitted that the Defendants/Applicants have met the first condition for the grant of an Interlocutory injunction in this suit and urged the Court to grant same.

2. <u>IRREPARABLE DAMAGE WHICH DAMAGES CANNOT ADEQUATELY COMPENSATE:</u>

Under this head, learned counsel submitted that the Defendants/Applicants are required to show the existence of an irreparable damage which they will suffer if the application for injunction is refused, which injury must be substantial and could never be adequately remedied by damages.

He submitted that the fact that the Applicants may have a right to recover damages is no objection to the exercise of the jurisdiction by injunction, if their rights cannot be adequately protected or vindicated by damages and referred the Court to the case of: ***SARAKI v. KOTOYE (1990) 4 NWLR (143) 144 at 187 paragraphs E-F.***

He said that they deposed to facts in their affidavit to show that the Defendants/Applicants obtained judgment on the land in dispute and submitted that rendering a judgment of court supine before the eyes of the world is not something that damages can adequately compensate for anywhere because the court is the last resort of the masses.

He urged that the Claimants/Respondents should not be seen by the entire world to have acted with impunity and to have profited from such acts by oppressing the Defendants/Applicants with the processes of court contrary to the law.

He submitted that the Defendants/Applicants have fulfilled the second condition for the grant of this Application.

3. <u>UNDERTAKING TO PAY DAMAGES</u>

Counsel submitted that the Defendants/Applicants have undertaken in their supporting affidavit to indemnify the Claimants/Respondents against any loss or damage pursuant to the order been made by this Honourable Court if it should not have been made at all.

He posited that it is safer to err on the part of caution by accepting the Defendants/Applicantsô undertaking to pay damages if the grant of the Application turns wrong than for the Court to act contrary while the *res* in this matter suffer damages from acts induced by the Claimants/Respondents, who are attempting to foist on the Court a *fait accompli* on the long run.

He submitted that the Defendants/Applicants have met the third condition for the grant of this Application.

4. <u>BALANCE OF CONVENIENCE</u>

Under this requirement, learned counsel submitted that the Defendants/Applicants are required to show the nature of injury which they would suffer if the injunction is not granted and the case is subsequently decided in their favour. He contended that the question of whether or not the balance of convenience tilts in favour of the Claimant is sometimes inextricably interwoven with the question of whether the Claimant will afterwards suffer irreparable damage if he should ultimately turn out to be right. He referred the Court to the dictum of Tobi JCA (as he then was) in the case of: ***ACB v. AWOGBORO (1991) 2 NWLR (176) 77 at 719-720***, where he stated thus:

> ***"The balance of convenience (the opposite of inconvenience) between the parties is a basic determinant factor in an application for interlocutory injunction, in the determination of this factor, the law requires some measurement of the scale of justice to see where the pendulum tilts.***
> ***While the law does not require a mathematical exactness, it is the intention of the law that the pendulum should really tilt in favour of the Applicant. In other words, there should be enough evidence that the applicant will suffer more inconvenience if the application is refused."***

Counsel submitted that they have shown that the land in dispute is being tampered with by the 3rd Claimant/Respondents and other members of his community who are clearing the farmlands in dispute with intent to establish new farms thereon.

He maintained that the Claimants/Respondents should not be seen by the entire world to be acting with impunity with the attendant effect of changing the physical and aesthetic nature of the land and profiting from such acts when they are the Claimants in this case. He submitted that if the Claimants/Respondents are not restrained and judgment is eventually in favour of the Defendants/Applicants, no amount of pecuniary compensation can return the manure to the land and the aesthetics thereon to their original state for agricultural purposes.

He submitted that more justice will result in granting this application than in refusing it. That the Defendants/Applicants cannot explain why they have resorted to self-help to take over the property which they have put in dispute contrary to the judgment of court which they are aware of, in total violation of due process of law and ***Section 44 of the Constitution of the Federal Republic of Nigeria, 1999***.He referred the Court to the case of: ***GREEN v. GREEN (2001) 45 WRN 90 at 138 lines 2540***.

He said that the Claimants/Applicants have nothing to lose by following the due process of law in a democratic society. He referred the Court to the case of: ***OBEYA MEMORIAL HOSPITAL v. ATTORNEY GENERAL OF THE FEDERATION (1987) SCNJ 42 at 67***.

He submitted that assuming without conceding that the balance of convenience is also in favour of the Claimants/Respondents, the Court should still preserve the *status quo* by allowing the *res* in the matter to be maintained by the parties for the avoidance of communal crisis and bloodshed. He referred to the dictum of Uwaifoh JCA (as he then was) in the case of: ***ILECHUKWU v. IWUGO (1989) 2 NWLR (101) 99 at 108*** where he stated thus:

> ***"Where the relevant factors are evenly balanced***
> ***prudence demands that the status quo be preserved."***

He submitted that the balance of convenience is in favour of the Defendants/Applicants and that they have met the fourth condition for the grant of this Application.

5. CONDUCT OF THE PARTIES:

On the conduct of the parties, learned counsel submitted that the Defendants/Applicants did not delay in bringing this action, because they are avid believers in due process and the Rule of Law. That the Defendants/Applicants have done all that is required of them by bringing to the Honourable Court issues of tampering with the *res* in this case on the part of the Claimants and the Exhibits attached hereto are quite illustrative of this fact.

He submitted that the Claimants/Respondents have acted adversely against the Claimants/Applicants in relation to the *res*.

In conclusion, he submitted that the Defendants/Applicants have met the requisite conditions for the grant of an interlocutory injunction and urged the Court to grant same and preserve the *status quo antebellum* in this suit in the overall interest of justice.

Opposing the application, the learned Counsel for Claimants/Respondents, R.E.Orukpe Esq. relied on his 49 paragraphs Counter Affidavit and his Written Address.

In his Written Address, he formulated a sole issue for determination as follows:

"Whether having regards to the prayers contained in the motion papers and the affidavit in support of motion and upon a proper evaluation of the facts and circumstances of this case, the Defendants/Applicants are entitled to the grant of an order of interlocutory injunction against the Claimants/Respondents in this case?"

Opening his arguments in opposition to the application, learned counsel submitted that from the depositions contained in the affidavit in support of the motion, the Claimants/Applicants have not presented materials facts to persuade this Court to exercise its discretion in their favour.

He submitted that some of the factors to be considered by the Court in determining an application for interlocutory injunction include the following:

a) Whether there is a subsisting action;
b) Whether the Applicant has a legal right for which protection the interlocutory injunction is sought and that there are reasonable chances of success;
c) Whether there is a serious question to be tried necessitating that the *status quo* should be maintained pending the determination of the substantive action and that the application has a real possibility not a probability of success at the trial;
d) Whether the balance of convenience is in favour of the Applicant, that is, whether more justice will result in granting the injunction than in refusing it;
e) Whether damages would be adequate compensation for the Applicant if the interlocutory injunction is refused and he wins the substantive suit at the end of the day;
f) Whether the Applicantôs conduct is not reprehensible for example, by not being guilty of undue delay in bringing the application; and
g) No order of interlocutory injunction should be made without a satisfactory undertaking as to damages in the event of a wrongful exercise of the Courtôs discretion in granting the injunction save in exceptional cases.

Counsel referred the Court to the case of: ***ADESINA vs. AROMOLO (2004) 6 NWLR PT. 870*** at page 601 where it was held that the above factors must co-exist before an order of interlocutory injunction can be granted.

He submitted that since the grant of an order of interlocutory injunction is an equitable relief to be granted subject to the discretion of the Court having regard to the facts and circumstances of the particular case, the Defendants/Applicants herein have the burden of establishing through affidavit evidence that their application merits the exercise of this Honourable Courtôs discretion in their favour.

He further submitted that in this instant case the Defendants/Applicants have not discharged that burden and he therefore urged the Court to refuse the application.

He contended that the first burden placed on the shoulders of an Applicant for an order of interlocutory injunction is to show clearly before the Court the size and/or identity of the land to which he/she seeks an order of injunction or the land to which his prayer for injunction relates. He said that in the instant case, the Defendants/Applicants stated in paragraph 3(a) ï (l) of their affidavit in support of the motion that the land in dispute is covered by the consent judgments in Suit Nos. HUB/9/2015 and HUB/10/2015 i.e. Exhibit A1 and A2 respectively attached to their affidavit in support of the motion.

He submitted that there is nowhere in either Exhibits A1 or A2 where the size and identity of the land was stated.

He posited that it is trite law that the identity of land in the proceedings can be said to have been clearly made out if a surveyor armed with the record of proceedings can produce a survey plan of the land described therein. He said that in this case the two consent judgment never gave the size or measurements of the portion of land said to have been decided in favour of the Defendants/Applicants and for which they are now seeking an order of injunction.

Counsel submitted that if the Claimants/Respondentsô litigation survey plan i.e. Exhibit AA is anything to go by, the portion of land in dispute in this case is clearly different and distinct from the

portions of land covered by Exhibits A1 and A2. That there is nowhere in Exhibit AA i.e. the litigation survey plan in this case, where any farm or any crops belonging to the Defendants/Applicants is shown. He therefore maintained that the Defendants/Applicants have never been in possession of the disputed land.

He submitted that an order of injunction is never used to transfer possession from a person in possession to an Applicant for injunction who has never been in possession

He further submitted that it is the law that an order of injunction is never granted to restrain farmers from entering their farms or tending their crops simply because there is litigation over the area of farm land. For the above proposition of the law, he relied on the case of:

REUBEN EZEBILO& ANOR vs. MADAM NWUNAKU CHINWUBA & ANOR (1997) 7 NWLR PT 511 at page 108 ratio 27 at page 118.

Thereafter, learned counsel addressed the Court sequentially on each condition to warrant the granting or refusal of the application.

a) <u>WHETHER THERE IS A SUBSISTING ACTION OR SERIOUS QUESTION OF LAW TO BE TRIED AT THE HEARING OF THE CASE AND LEGAL RIGHT:</u>

On this condition, he submitted that even though there is a subsisting action or serious question of law to be tried at the hearing of the case, the Defendants/Applicants have not shown that they have any legal right to the land in dispute. He said that the Claimants/ Respondentsô litigation survey plan has shown clearly that the portions of land covered by Exhibits A1 and A2 are clearly different from the land in dispute in this case.

b) <u>BALANCE OF CONVENIENCE</u>:

Counsel submitted that the Claimants/Respondents have shown by their counter affidavit evidence that the balance of convenience in this case is in their favour because they have farms and crops on the land in dispute and have also been in possession of same from time immemorial and that they have more to lose if they are restrained at this stage.

He contended that the Defendants/Applicants have not shown that they have anything on the land in dispute.

c) **<u>WHETHER COMPENSATION WOULD BE ADEQUATE:</u>**

He submitted that the Claimants/Respondents have also deposed to the fact that monetary compensation will not be enough or adequate to assuage the damages or injury or loss they would suffer if this application is granted at this stage.

d) **<u>APPLICANT'S CONDUCT</u>**:

Counsel submitted that from the affidavit evidence, the Defendants /Applicantôs conduct in this case has been reprehensible in that this action was filed in 2016 but waited until the Claimants/Respondents had opened their case by calling a witness in 2018 before bringing this motion for injunction in order to cause delay in the trial and determination of this case. He maintained that the Applicants are guilty of undue delay in bringing this application.

e) **<u>UNDERTAKING TO PAY DAMAGES:</u>**

He submitted that the Applicants have not given a satisfactory undertaking as to damages in the event of a wrongful exercise of the courtôs discretion in granting this application in the event of the substantive matter being decided against them.

On the whole, he urged the Court to consider the totality of the Defendants/Applicantôs case as shown in the depositions in their affidavit in support of motion and exhibits attached and refuse this application

I have carefully examined all the processes filed in this application together with the arguments of both counsel on the matter.

An application for interlocutory injunction seeks a discretionary remedy. It is settled law that all judicial discretions must be exercised judicially and judiciously.

The essence of an interlocutory injunction is the preservation of *the status quo ante bellum*. The order is meant to forestall irreparable injury to the applicantôs legal or equitable right. See: ***Madubuike vs. Madubuike (2001) 9NWLR (PT.719) 689 at 709; and Okomu Oil Palm Co. vs. Tajudeen (2016) 3NWLR (Pt.1499)284 at 296.***

The principal factors to consider in an application for interlocutory injunction are as follows:

I. The applicant must establish the existence of a legal right;
II. That there is a serious question or substantial issue to be tried;
III. That the balance of convenience is in favour of the applicant;
IV. That damages cannot be adequate compensation for the injury he wants to prevent;
V. That there was no delay on the part of the applicant in bringing the application; and
VI. That the applicant must give an undertaking to pay damages in the event of a wrongful exercise of the Courtôs discretion in granting the injunction.

See the following decisions on the point: ***Kotoye v C.B.N.(1989) 1 NWLR (Pt.98) 419; Buhari v Obasanjo (2003) 17 NWLR (Pt.850) 587; and Adeleke v Lawal (2014) 3 NWLR (Pt.1393) 1at 5.***

The issue for determination in this application is whether the Defendants/Applicants have satisfied the above enumerated conditions to warrant the exercise of the discretion of this Court in their favour.

The most important pre-condition is for the applicants to establish that they have legal rights which are threatened and ought to be protected. See: ***Ojukwuvs Governor of Lagos State (1986) 3 NWLR (Pt.26) 39; Akapovs Hakeem Habeeb (1992) 6 NWLR (Pt.247) 266-289.***

From the processes filed in this suit, it must be observed that the Applicants are Defendants who are not counter-claiming against the Claimants. The first thing to determine is whether an order of interlocutory injunction can be granted to such a party? On the available legal authorities, for a defendant who has not counter-claimed to obtain an interlocutory injunction, he must show that he has a right to protect even though he has not filed a claim against the Claimant.

The issue therefore is whether the Claimants have established prima facie, the existence of any legal right which they seek to protect. From the available facts it is apparent that the substratum of the Applicants case is that the land claimed by the Claimant is part of the same land over which this Court delivered two judgments in favour of the Applicants. Their alleged legal rights are based on the two subsisting judgments. The Claimants however are seriously disputing this position. I am of the

view that at this stage, the Applicants have shown the existence of a legal right which they seek to protect.

On the second condition of having a serious question or substantial issue to be tried, I am guided by the dictum of the Court in the case of**:** ***Onyesoh vs Nze Christopher Nnebedun& Others (1992) 1 NWLR (Pt.270) 461*** **at 462,** where it was re-emphasized that:

> **"*It is not the law that the applicant must show a prospect of obtaining a permanent injunction at the end of the trial. It is sufficient for the applicant to show that there is a serious question between the parties to be tried at the hearing."***

Also, in the case of: ***Ladunni vs. Kukoyi (1972) 1 All NLR(Pt.1) 133*****,** the Court opined that: ***"…when a Court considers an application for interlocutory injunction, it is entitled to look at the whole case before it, all the circumstances which may include affidavit evidence, judgments or pleadings if these have been filed. All these show what is in the dispute between the parties".***

Applying the foregoing principles, I am of the view that there are substantial issues to be tried in the substantive suit.

On the balance of convenience, the applicants must show that the balance of convenience is on their side. In the classical case of ***Kotoye v C.B.N. (1989) 1 NWLR (Pt.98) 419*****,** the Supreme Court explained that the applicant must establish that more justice will result in granting the application than in refusing it.

Presently, the Applicantsô complaint is that the land in dispute is being tampered with by the 3rd Claimant/Respondents and other members of his community who are clearing the farmlands in dispute with intent to establish new farms thereon.

On the other hand, the Respondentsô have seriously contended that the balance of convenience is in their favour. According to them, they have farms and crops on the land in dispute and have been in possession of same from time immemorial and they have more to lose if they are restrained at this stage.

In paragraph 45 of their Counter-Affidavit, they stated thus:

> ñ***45.*** ***That myself and other members of Idumu-Ogbe community get our means of livelihood from the farms we have on the disputed land, pay our children's school fees, meet our medical needs, clothing and general welfare and well-being from proceeds from the farms in respect of which the Defendants/Applicants are now seeking to restrain us from entering, tendering and harvesting if the order of the injunction is granted against us."***

They maintained that the Defendants/Applicants have not shown that they have anything on the land in dispute.

From the available evidence, it is apparent that the Claimants/Respondents are in possession of the land. The Applicants have tacitly conceded that fact by the assertions that the Claimants are carrying on farming activities on the land.

Generally, the balance of convenience is in favour of a party who is in possession of the land with an established enterprise thereon. See the following cases: ***John Holt Nigeria Ltd. vs. Holts***

African Workers Union of Nigeria and Cameroons (1963) 1 All NLR 379; Gever &Ors. Vs. China (1993) 9 NWLR (Pt.315) 97 at 108.

In the event, I am of the view that the Applicants have not satisfied this condition on the balance of convenience. The balance of convenience tilts in favour of the Claimants/Respondents who are presently farming on the land. They will suffer more if they are restrained by any injunctive order.

Next is on the requirement of inadequacy of damages. In the case of: ***American Cyanamid Co. vs Ethicon Ltd. (1975) 1 All E.R 504***, the court stated that:

> ***"If damages …would be an adequate remedy and the defendant would be in a financial position to pay them, no interlocutory injunction should normally be granted, however strong the plaintiff's claim appeared to be at that stage"***

I have gone through the entire gamut of the affidavit in support of this application to see how they complied with this requirement of inadequacy of damages. The affidavit evidence is silent on this. However, in the written address of counsel, the applicantsô counsel submitted that there are elaborate facts in their Statement of Defendant to show that the Defendants/Applicants obtained judgment on the land in dispute. He therefore submitted that rendering a judgment of court supine before the eyes of the world is not something that damages can adequately compensate for anywhere because the court is the last resort of the man.

However, on the part of the Claimants/Respondents, in paragraph 44 and 45 of their Counter-Affidavit, they challenged this condition when they deposed as follows:

"44. That no amount of damages or compensation can be offered or paid to us i.e. the Claimants/Respondents by the Defendants/Applicants herein that can compensate and assuage me and members of my community for the hardship that will be inflicted on us if at the end of the day it is found that the Defendants/Applicants' motion for injunction was unmeritorious and ought not to have been granted in the first place.

45. That myself and other members of Idumu-Ogbe community get our means of livelihood from the farms we have on the disputed land, pay our children's school fees, meet our medical needs, clothing and general welfare and well-being from proceeds from the farms in respect of which the Defendants/Applicants are now seeking to restrain us from entering, tendering and harvesting if the order of the injunction is granted against us."

In the event, I hold that the Applicants have not fulfilled this requirement.

On the condition of whether the Applicants were prompt in bringing the application, Respondents Counsel submitted that the Claimants/Applicants are guilty of delay. According to him, this action was filed in 2016 but they waited until the Claimants/Respondents had opened their case by calling a witness in 2018 before bringing this motion for injunction in. The Applicants have not given any reason for the delay. It is settled law that: ***"delay defeats equity".***

Finally, on the requirement of an undertaking to pay damages in the event of a wrongful exercise of the Courtôs discretion in granting the injunction, I observed that the Applicants made the undertaking to pay damages in paragraph 3(l) of their supporting affidavit.

From the foregoing, it is apparent that the Applicants have not fulfilled all the conditions to enable the Court to exercise its discretion in their favour. They failed to meet the requirements in

respect of: ***the balance of convenience; inadequacy of damages and promptness in bringing this application.***

Accordingly, this application is dismissed with costs assessed at N10, 000.00 (ten thousand naira) in favour of the Claimants/Respondents.

P.A.AKHIHIERO

JUDGE

24/10/18

COUNSEL:

1. S.E.Okoh Esq.é é é é é é é é é é é é é .DEFENDANTS/APPLICANTS
2. R.E.Orukpe Esq.é é é é .é é é é é é é ..CLAIMANTS/RESPONDENTS