

IN THE HIGH COURT OF JUSTICE
IN THE BENIN JUDICIAL DIVISION
HOLDEN AT BENIN CITY
BEFORE HIS LORDSHIP, HON. JUSTICE P.A. AKHIHIERO,
ON MONDAY THE
22ND DAY OF SEPTEMBER 2025.

IN THE MATTER OF APPLICATION BY MR FRIDAY OWANBOR
FOR AN ORDER FOR THE ENFORCEMENT OF HIS FUNDAMENTAL RIGHT

IN THE MATTER OF FUNDAMENTAL RIGHTS (ENFORCEMENT PROCEDURE)
RULES 2009 AND PURSUANT TO SECTION 46(3) OF THE CONSTITUTION OF THE
FEDERAL REPUBLIC OF NIGERIA 1999

BETWEEN: **SUIT NO. B/13^M/2025**
MR. FRIDAY OWANBOR -----**APPLICANT**

AND

1. MR. ENABOYA EMMANUEL GODWIN 2. MR. ISAH MOHAMMED SEGIRU 3. DIVISIONAL POLICE OFFICER (DPO) AHOR POLICE DIVISION EDO STATE. 4. COMMISSIONER OF POLICE EDO STATE POLICE COMMAND 5. ASSISTANT INSPECTOR GENERAL OF POLICE (AIG ZONE 5) 6. THE INSPECTOR GENERAL OF POLICE 7. MR. TUNDE IDOWU	}	 RESPONDENTS
---	---	---------------------------------

JUDGMENT

This judgment is in respect of an application for the enforcement of the Applicant's Fundamental Rights brought pursuant to **Section 43 and 44 of the Constitution of the Federal Republic of Nigeria. And Section 14 of the African Charter on People and Human Rights** wherein he is praying this Honourable Court for the following reliefs:

- 1) *A Declaration that Applicant as the legal owner has a proprietary interest and right in the DAF Tipping Truck with Chassis number 82978110002 and that the Seizure and Detention of the said Vehicle by the 1st, 2nd, 3rd, 4th, 5th and 6th Respondents, their agents, officers or representatives is illegal, unlawful, null and void and amounts to breach of his fundamental rights as enshrined in Section 43 and 44(1) of the 1999 Constitution of the Federal Republic of Nigeria (as amended);*
- 2) *A declaration that the 1st, 2nd, 3rd, 4th, 5th and 6th Respondents cannot interfere with the Applicant's Right over the DAF Tipping Truck with Chassis number 82978110002 which was legally acquired oversea, shipped to Nigeria and cleared at the seaport and handed over to the 7th Respondent to advertise and place for sale for the sum of N59,000,000.00 (Fifty Nine Million Naira);*
- 3) *A Declaration that the Respondents cannot dispossess the Applicant of the DAF Tipping Truck with Chassis number 82978110002 being a vehicle which the Applicant duly acquired and owns and which he has no intention of selling to the 1st Respondent;*
- 4) *A Declaration that the Applicant did not direct or authorize any of the Respondents to negotiate price, receive purchase money, sell and transfer title of the DAF Tipping Truck with Chassis number 82978110002 on his behalf;*
- 5) *A Declaration that the 1st Respondent did not buy the DAF Tipping Truck with Chassis number 82978110002 from the Applicant and cannot use the Police to dispossess the Applicant of the vehicle;*
- 6) *A declaration that the 1st, 3rd, 5th and 6th Respondents have wrongly held unto the DAF Tipping Truck with Chassis number 82978110002 beyond the contemplated time for its sale, thereby leading to loss of income and profit by the Applicant;*
- 7) *A Declaration that it is wrongful, illegal, ultra vires, and a violation of the Applicant's proprietary right in the DAF Tipping Truck with Chassis number 82978110002, for the 3rd, 5th and 6th Respondents to assist the 1st Respondent to seize and detain the said vehicle with the intention of stealthily and unlawfully using their coercive powers to release and hand over the said DAF Tipping Truck with Chassis number 82978110002 to the 1st Respondent;*
- 8) *An Order directing the 3rd, 5th and 6th Respondents their agents, officers or representatives to immediately release the DAF Tipping Truck with Chassis number 82978110002 to the Applicant;*
- 9) *An Order of injunction restraining the Respondents and their agents or privies from further interfering with the right of the Applicant over the DAF Tipping Truck with Chassis number 82978110002;*
- 10) *The sum of N 100,000,000.00 (ONE HUNDRED MILLION NAIRA) to be paid jointly and /or severally by 1st, 3rd, 5th and 6th Respondents to the Applicant for the loss of income, value of the vehicle and general damages; and*
- 11) *Such further orders as this Honourable Court may deem fit to make in the circumstances of this case.*

The application is supported by a 27 Paragraph affidavit deposed to by the Applicant, an affidavit of urgency, and a statement pursuant to ***Order 2, Rule 3 of the Fundamental Rights (Enforcement Procedure) Rules 2009***.

The learned counsel for the Applicant also filed a written address in support of the Application. In the Applicant's affidavit in support of this application, the Applicant narrated the events that culminated in the filing of this application.

Succinctly put, the Applicant's case is that he is a business man who travels abroad to buy Trucks and other vehicles to be sold for profit in Nigeria.

He alleged that the 7th Respondent is his commissioned agent who oversees the custody and advertising of the vehicles which he imports into the country for sale.

He alleged that sometime ago, he imported the vehicle in dispute, a DAF Tipping Truck with Chassis number 82978110002 and instructed the 7th Respondent to advertise and effect the sale of the Truck. The importation documents of the vehicle were attached as Exhibit "A" to his supporting affidavit.

He said that he had no dealings with the 1st and 2nd Respondents before the seizure and detention of his DAF Tipping Truck with Chassis number 82978110002.

He said that the 7th Respondent made arrangements to advertise the Truck in a car stand before it was seized.

According to the Applicant, whenever he imports his vehicles, he normally fixes the price and ask the 7th Respondent to advertise, sell according to his agreed price and he would pay the 7th Respondent his commission fee, before the buyer is handed over the keys and the vehicle particulars.

He alleged that in respect of the vehicle in dispute, he fixed the price for the sum of N59,000,000.00 (Fifty Nine Million Naira) and same was communicated to the 7th Respondent.

He said that he did not sell the vehicle on Higher Purchase to the 1st Respondent or any other person. He said that he instructed the 7th Respondent to advertise the Truck for sale and refer any prospective buyer to him to negotiate the price and make payment.

He said that because of the delay in getting a prospective buyer, the exchange rate between the dollar which is the currency with which the vehicle was purchased widened thus necessitating an upward review of the earlier price.

He alleged that the 1st Respondent never paid any money to him in respect of the purchase of the vehicle.

He said that he was surprised to hear that the 1st Respondent broke into the 2nd Respondent's car stand with some unknown persons and forcefully removed his vehicle to Ahor Police Division over a transaction between the 1st and 2nd Respondent which he was never aware of.

He said that the 1st, 3rd and 5th Respondents concocted a story to enable them seize and detain his vehicle at the Divisional Police Station at Ahor in the Month of December 2024.

He said that since he was not a party to the transaction between them, he told the 7th Respondent to sort out the problem himself and retrieve his vehicle.

He alleged that the transaction between the 7th and the 2nd Respondent regarding his Truck is not a criminal one but a civil transaction which cannot warrant the 3rd and 5th Respondents to seize and detain the truck.

He maintained that the seizure and detention of the truck by the 1st, 3rd, 4th, 5th and 6th Respondents is illegal, unlawful, null and void and amounts to a breach of his fundamental rights as enshrined in *Sections 43 and 44(1) of the 1999 Constitution of the Federal Republic of Nigeria (as amended)*.

He said that he has incurred great loss and damage because of the actions of the 1st, 3rd, 5th and 6th Respondents.

In opposition to this application, the 1st and 7th Respondents filed their Counter Affidavits and the written addresses of their counsel.

In his Counter Affidavit of 46 paragraphs, the 1st Respondent stated that he does not know the Applicant and the 7th Respondent. He also stated that he is not aware of any transaction relating to any DAF Tipping Truck with Chassis Number 82978110002.

He said that he did not buy or agree to buy the said vehicle from the Applicant neither did he or his agent seize or detain the said vehicle.

According to him, the said DAF Tipping Truck with Chassis Number 82978110002 belongs to one Eric Ogbeide and not the Applicant as clearly shown in the VREG Certificate dated September 9th, 2022, duly attached to the Applicant's application. He referred the Court to the VREG Certificate dated September 9th, 2022, which he attached to his supporting affidavit as "Exhibit 1".

He stated that the 2nd Respondent is a car dealer who sells trucks in his business address at No. 140, Eyaen, Benin Auch Road, Edo State. He said that sometime in May 2024, he entered into an agreement with the 2nd Respondent to purchase an OAF Truck with VIN NUMBER VA0E66ZZZIL025084 for the sum of N 29, 000, 000 (Twenty Nine Million Naira). He attached the pictures of the OAF Truck to his supporting affidavit as "Exhibit E1".

He said that they agreed that the payment for the truck should be made in instalments and he promptly paid the sum of N10, 000, 000 (Ten Million Naira) as the first instalment to the 2nd Respondent and he acknowledge the receipt of same and issued him a receipt which he attached as part of "Exhibit E1".

He said that after a while, he transferred the balance sum of N 19, 000, 000.00 (Nineteen Million Naira) in tranches to the 2nd Respondent to complete the purchase price of N 29, 000, 000.00 (Twenty-Nine Million Naira) and the 2nd Respondent issued him with receipt No. 0119 to evidence full payment for the said truck. The said receipt was attached as “Exhibit E1” to his Counter-Affidavit.

He said that after the complete payment, the 2nd Respondent failed to deliver the truck to him as mutually agreed and became hostile by threatening him.

He said that it was at this stage that he reported the matter at the Ahor police station. The 1st Respondent alleged that he has being out of job without any means of survival since the 2nd Respondent failed to supply the said truck to him to enable him commence business and he has been experiencing serious hardship because of the default of the 2nd Respondent.

He said that in a bid to seek redress, he instituted suit No. B/1191/2024 against the 2nd Respondent and the said suit is pending before another court for determination. He attached the Writ of Summons and Statement of Claim in the said suit as “Exhibit 2”.

He maintained that the present application is an abuse of court process because the OAF truck with Chassis / VIN NUMBER VA0E66ZZZ1L025084 which the 1st Respondent bought from the 2nd Respondent is different from the DAF Tipping Truck with Chassis Number 82978110002 which is the subject matter of this application.

He said that having paid the 2nd Respondent the full the purchase price for the truck with Chassis NUMBER VA0E66ZZZ1L025084 he has acquired title to the truck and is entitled to possession of same.

He maintained that he is not involved in any police case with the Applicant in respect of the truck which he purchased from the 2nd Respondent.

The 2nd Respondent was represented by one ***Mrs.E.E. Ray Eboigbe*** but she did not file any Counter-Affidavit or written address on behalf of the 2nd Respondent. As a matter of fact, on the day of the final address, the 2nd Respondent and his counsel were absent.

The 3rd, 4th, 5th and 6th Respondents were served with the processes in this suit, but they did not file any process in response.

In response to this application, the 7th Respondent filed a counter-affidavit of 17 paragraphs dated 19/3/25 and a written address of his counsel. At the hearing of this application. The learned counsel for the 7th Respondent informed the Court that the 7th Respondent is not opposed to this application and she urged the Court to release the truck to the Applicant or return same to the car stand of the 2nd Respondent.

In response to the Counter-Affidavit of the 1st Respondent, the Applicant filed a Further Affidavit in support of this application on the 19th of March 2025. In his further affidavit, the Applicant alleged that the name of Eric Ogbeide which appeared in his VREG Certificate is that of his clearing agent in Lagos. He said that the 2nd and 7th Respondents are aware that he is the owner of the vehicle which is in dispute. He said that the vehicle in dispute is the same vehicle which is detained at the Ahor Police Station. He reiterated that the transaction is entirely civil, and the police are not supposed to detain the vehicle.

The learned counsel for the Applicant, the 1st and 7th Respondents filed their written addresses which they adopted as their final arguments in support of their respective cases.

In her final written address, the learned counsel for the Applicant, *Mrs D.E. Eduwu* formulated three issues for determination as follows:

- 1. Whether the Applicant has established his title and ownership of the DAF Tipping Truck which is the vehicle in dispute?***
- 2. Whether the Applicant has any binding contractual relationship with the 1st Respondent?***
- 3. Whether the 3rd, 4th, 5th and 6th Respondent can use their statutory power to seize, detain the Applicant's DAF Tipping Truck for subsequent release to the 1st Respondent?***

Thereafter, the learned counsel argued the three issues seriatim.

ISSUE 1:

Whether the Applicant has established his title and ownership of the DAF Tipping Truck which is the vehicle in dispute?

Arguing this first issue, learned counsel referred the Court to Exhibit A and the deposition regarding how the Applicant bought the said DAF Truck, shipped it to Nigeria and had his clearing agent clear same.

She submitted that the ownership of the Applicant was not challenged or contradicted by the Respondent. She said that nobody has come up a claim ownership of the Applicant's Truck.

She urged the Court to hold that the Applicant is the owner of the DAF Tipping Truck having bought it overseas, imported it to Nigeria and had it cleared by his clearing agent.

On the duty of the Court to act on uncontradicted evidence she relied on the case of ***DAN A. D. PETROLEUM & GAS LTD & ANOR V. JIGAWA STATE GOVT & ORS (PP. 23 PARAS. D) (sic).***

She submitted that the Applicant has established his title and ownership of the DAF Tipping Truck, the vehicle in dispute.

On the Applicant's right to own properties she referred to the cases of ***NPG FARMS (NIG) LTD v. ZENITH BANK PLC (2022) LPELR-57548(CA) (Pp. 14 paras. C)***; ***IKECHUKWU EDEH V. COMMISSIONER OF POLICE BAUCHI STATE(2014) LPELR 23354***; and ***GOVT. OF ENUGU STATE OF NIG.& ORS V. ONYA & ORS (2021) LPELR-52688(CA) (PP. 40 PARAS. A)***.

ISSUE 2:

Whether the Applicant has any binding contractual relationship with the 1st Respondent?

Counsel submitted that there is no binding contractual relationship between the Applicant and the 1st Respondent.

She maintained that from the supporting affidavit, the Applicant's only relationship was with the 7th Respondent.

She submitted that for there to be a Buyer and Seller relationship between the Applicant and the 1st Respondent there must be privity of contract consisting of offer, acceptance and consideration.

She said that these elements are absent in this case and referred to the case of ***ABBA V. SHELL PETROLEUM DEVELOPMENT COMPANY OF NIGERIA LIMITED (2013) LPELR-20338(SC) (PP. 32-33 PARAS. G)***.

Furthermore, she submitted that there was no principal and agent relationship between the Applicant and the 2nd Respondent that will enable the 2nd Respondent to sell the Tipping Truck on behalf of the Applicant.

She submitted that the 7th Respondent could not have delegated his power of custody and advertisement for sale over the Tipping Truck to the 2nd Respondent and she relied on the case of ***EZENWA BROS (NIG) LTD V. ONA-JONES (NIG) LTD (2012) LPELR-9789(CA) (PP. 18 PARAS. A)*** where the court held that based on the principle of *delegatus non potest delegare*, an agent cannot delegate his authority without the express or implied authority of his principal.

She also relied on the case of ***REGISTERED TRUSTEES OF KANO MOTOR CLUB V. YOLA & ORS (PP. 47-48 PARAS. B)***.

She urged the Court to hold that there was no contractual relationship between the Applicant and the 1st Respondent, whether directly or by agency.

Arguing further, counsel posited that assuming without conceding that the 2nd Respondent was an agent of the Applicant, she submitted in the alternative that his agency ended with merely advertising the Tipping Truck for sale to a prospective buyer and referring them to the Applicant, not to negotiate price and receive the money on behalf of the Applicant and transfer ownership of the Tipping Truck.

She maintained that from the available facts, that there was no sale of the Tipping Truck to the 1st Respondent by the Applicant so the property in the Tipping Truck did not pass to the 1st Respondent.

ISSUE 3:

Whether the 3rd, 4th, 5th and 6th Respondent can use their statutory power to seize, detain the Applicant's DAF Tipping Truck for subsequent release to the 1st Respondent?

Counsel submitted that the 3rd, 4th, 5th and 6th Respondent cannot use their statutory power to seize and detain the Applicant's DAF Tipping Truck for subsequent release to the 1st Respondent.

She referred to the cases of *EDEH V. C.O.P BAUCHI STATE (2014) LPELR-23354(CA) (PP. 12-13 PARAS. E)* and *IBIYEYE & ANOR V. GOLD & ORS (2011) LPELR-8778(CA) (PP. 52-53 PARAS. D)* where the Courts held that the police cannot play the role of debt collectors in respect of civil transactions.

See also relied on the case of *OMUMA MICRO-FINANCE BANK NIG. LTD V. OJINNAKA (2018) LPELR-43988(CA) (PP. 15-17 PARAS. F)*.

In his final written address, the learned counsel for the 1st Respondent, *Eric Evwierhoma Esq.* formulated three issues for determination as follows:

- 1. WHETHER THE APPLICANT HAS ESTABLISH HIS CLAIM / TITLE TO THE DAF TIPPING TRUCK WITH CHASSIS NUMBER 82978110002 FORMING THE SUBJECT MATTER OF THIS SUIT AND IF THE APPLICANT HAS THE LOCUS STANDI TO FILE THIS SUIT.***
- 2. WHETHER OR NOT THIS COURT HAS JURISDICTION TO HEAR THIS SUIT BY VIRTUE OF THE APPLICANT LACK OF LOCUS STANDI TO INSTITUTE THIS SUIT?***
- 3. WHETHER OR NOT THIS SUIT AMOUNT TO ABUSE OF COURT PROCESS?***

Thereafter, the learned counsel argued the three issues seriatim

ISSUE 1:

WHETHER THE APPLICANT HAS ESTABLISHED HIS CLAIM /TITLE TO THE DAF TIPPING TRUCK WITH CHASSIS NUMBER 82978110002 FORMING THE SUBJECT MATTER OF THIS SUIT AND IF THE APPLICANT HAS THE LOCUS STANDI TO FILE THIS SUIT.

Arguing this first issue, learned counsel submitted that it is trite law that an applicant who approaches the court seeking reliefs must establish his right over the subject matter to vest locus standi on the applicant.

He submitted that the Applicant has not placed any evidence before this Court to proof his ownership of the said DAF tipping truck with chassis number 82978110002 forming the subject

matter of this suit. He therefore submitted that the Applicant lacks the locus standi to file this suit.

He said that the Applicant has a duty to prove that he is the lawful owner of the DAF tipping truck with chassis number 82978110002 and he relied on the cases of *FUMUROTOI vs AGBEKE (1991) 5 NWLR (pt.189) page 1*; *AMODU vs AMODE (1990) 5 NWLR (Pt 150) page 356*; *ISEOGBEKUN vs. ADELAKUN (2013)2 NWLR pt 141 (SC)*; *INANA vs ROBINSON (1979)3-4SCL*; and *INTERCONTINENTAL BANK LTD vs. BRIFANA LTD (2013)3 NWLR (pt 1316) page 1*. He also relied on the provision of *section 135 of the Evidence Act* and the cases of *A.G. Rivers vs A.G. Bayelsa State (2013) NWLR (pt 1340) page 123*, *Okubule vs. Oyagbola (1990) 4 NWLR (PT 144) PAGE 723*.

Learned counsel referred the Court to “**Exhibit 1**” which he said clearly shows one **ERIC OGBEIDE** as the owner of the said truck and not the Applicant.

He urged the Court to hold that the Applicant lacks the locus standi to institute this suit.

ISSUE 2:

WHETHER OR NOT THIS COURT HAS JURISDICTION TO HEAR THIS SUIT BY VIRTUE OF THE APPLICANT LACK OF LOCUS STANDI TO INSTITUTE THIS SUIT?

Counsel submitted that it is trite law that where the applicant lacks locus standi to institute an action, the court automatically lacks the jurisdiction to entertain the suit.

He submitted that where a court lacks the jurisdiction to hear a matter, the entire proceedings no matter how well conducted and decided would amount to a nullity and he relied on the following cases: *Bronik Motors Ltd and another v. Wema Bank Ltd. 1983 1 SCNLR p.296*; *Okoya v. Santilli (1990) 2NWLR Pt131 P172*; *Madukolu v. Nkemdilim 1962 1 ANLR Pt4 p587*.

He maintained that the issues of jurisdiction can be raised at any stage of the proceedings, and he relied on the case of *Usman Danfodio University v. Krans Thompson Organization Ltd 2001 15 NWLR (PT 736) P305*.

He posited that to determine the issue of jurisdiction; the Court must consider the following principles:

- (a) Whether the subject matter of the case is within the court's jurisdiction;
- (b) Whether there is any feature in the case which prevents the court from exercising its jurisdiction; and
- (c) Whether the case comes before the court initiated by due process of law and upon fulfillment of any condition precedent to the exercise of jurisdiction.

He referred the Court to the cases of *Madukolu v. Nkemdilim 1962 2 SCNLR p342* and *Ajao v Popoola 1986 5 NWLR Pi 45 P 802*.

He urged the Court to hold that due to the lack of locus standi of the Applicant, this Court lacks the jurisdiction to entertain this suit and same should be dismissed for lacking merit or struck out.

He maintained that jurisdiction is the combination of parties and subject matter, and he referred to the unreported decision of the Supreme Court in the case of *Isaac Obiwevbi vs. Central Bank of Nigeria in Suit No. SC. 266/2006*.

ISSUE 3:

WHETHER OR NOT THIS SUIT IS AN ABUSE OF COURT PROCESS?

Counsel submitted that an abuse of court process connotes the improper use of the judicial process by a party in litigation and he referred to the decision of the Supreme Court in the case of *Ashley Agwasim v. David Ojiche (2004) Legalpedia SC M73U*.

He posited that abuse of court process is an elusive concept in the wide domain of litigation, and he cited a plethora of cases to buttress the point.

He maintained that from the elastic nature of the concept, every court is enjoined by law to examine each case, predicated on its facts and circumstances, to ascertain if it displays traits of any abuse of court process and he cited the case of *Waziri v. Gumel (2012) 9 NWLR (Pt. 1304) 185*.

He posited that the barometer to gauge the existence of abuse of court process is the presence of multiplicity of suits bordering on the same issues and subject-matter between the same parties.

He further submitted that it is an abuse of court process when a party improperly uses the issue of the judicial process to the irritation and annoyance of his opponent.

He maintained that this suit is vexatious, provocative, annoying, irritating and amount to attempt by the Applicant to use the machinery of judicial process to oppress and harass the 1st Respondent in this matter.

He submitted that this suit is a total abuse of the judicial process because there is no real or imaginary dispute between the Applicant and the 1st Respondent regarding the DAF tipping truck with chassis number 82978110002 which is the subject matter of this suit.

In conclusion, he urged the Court to dismiss or strike out this suit for lack of jurisdiction.

I have carefully examined all the processes filed in this application together with the submissions of the learned counsels for the parties. The issues formulated by the learned counsel for the parties are quite germane to the just determination of this application.

However, I have condensed the issues into a sole issue for determination as follows:

Whether the Applicant is entitled to the Reliefs claimed in this Application for the breach of his fundamental rights.

I will proceed to resolve the sole issue for determination.

Essentially, the fulcrum of this application is that the Applicant allegedly purchased a DAF Tipping Truck with Chassis number 82978110002 and instructed the 7th Respondent to

advertise and effect the sale of the Truck subject to his confirmation of the price before sale. Thereafter, the 7th Respondent positioned the truck in the car stand of the 2nd Respondent who is a car dealer to advertise same for sale.

During the transaction, there was a delay in getting a buyer and due to the drastic change in the exchange rate between the Dollar and the Naira, the Applicant allegedly marked up the selling price of the vehicle.

Unknown to the Applicant, the 2nd Respondent allegedly negotiated a purported sale of the vehicle to the 1st Respondent at a lower price without recourse to the Applicant.

During the purported sale to the 1st Respondent, there were some disagreements between the 1st Respondent and the 2nd Respondent which prompted the 1st Respondent to forcefully enter the 2nd Respondent's car stand with some unknown persons and removed the vehicle to the Ahor Police Station where the vehicle has been detained ever since.

The Applicant has consistently maintained that he was not a party to the transaction between the 1st Respondent and the 2nd Respondent over the purported sale of his vehicle contrary to his instructions. He is insisting that the alleged transaction is a purely civil transaction which does not warrant the detention of his vehicle by the police.

The Applicant has maintained that the actions of the Respondents amount to a violation of his right to his personal property as guaranteed by *sections 43 and 44 of the 1999 Constitution of the Federal Republic of Nigeria*.

Curiously, the 1st Respondent who is the purported purchaser has denied ever purchasing the Applicant's vehicle from the 2nd Respondent. He said that the vehicle which he purchased from the 2nd Respondent is a different vehicle belonging to one Eric Ogbeide who is not the Applicant in this suit.

However, in his Further Affidavit in support of this Application, the Applicant alleged that the said Eric Ogbeide is the agent who imported the vehicle for him. He maintained that the vehicle which is detained at Ahor Police Station is his vehicle.

The right to own property is a fundamental right enshrined in the *Constitution of the Federal Republic of Nigeria 1999. Sections 43 and 44 (1) of the Constitution provide: -*

"43. Subject to the provisions of this Constitution every citizen of Nigeria shall have the right to acquire and own immovable property anywhere in Nigeria.

44-(1) No moveable property or any interest in an immovable property shall be taken possession of compulsorily and no right over or interest in any such property shall be acquired compulsorily in any part of Nigeria except in the manner and purposes prescribed by a law that, among other things-

a) requires the prompt payment of compensation therefore; and

b) gives to any person claiming such compensation a right of access for the determination of his interest in the property and the amount of compensation to a Court of law or tribunal or body having jurisdiction in that part of Nigeria."

See the case of ***KANDIX LTD & ANOR V. AG & COMMISSIONER FOR JUSTICE, CROSS RIVER STATE & ANOR (2010) LPELR-4389(CCA) (P. 8-9 PARAS. E).***

From the facts disclosed by the Applicant and the 7th Respondent, it is an indisputable fact that the Applicant gave a vehicle to the 7th Respondent for him to sell subject to his terms. It is also not in dispute that the 7th Respondent handed the vehicle over to the 2nd Respondent to display the vehicle in his car stand to attract potential buyers.

Incidentally, the 1st Respondent came as a potential buyer to purchase the vehicle from the car stand of the 2nd Respondent but in the course of the transaction, there was a disagreement between them which made the 1st Respondent to use the instrumentality of the Ahor Police Station to seize the vehicle from the car stand of the 2nd Respondent and detain same at the Ahor Police Station.

Furthermore, in a bid to enforce the contract of sale between him and the 2nd Respondent, the 1st Respondent instituted Suit No. B/1191/2024 against the 2nd Respondent and the said suit is pending before another court for determination. The Writ of Summons and Statement of Claim in the said suit were attached as "Exhibit 2" to the Counter-Affidavit of the 1st Defendant.

From the totality of the facts of this case, the transaction between all the parties is that of the sale of a vehicle. There appears to have been incidents of breaches of contract between the parties regarding the purported sale and purchase of the vehicle in dispute.

It is settled law that the Police does not and is not allowed to involve itself in purely civil disputes, especially one of contract and debt collection. Each time a party's complaint to the Police involves such issues of land dispute, debt collection and enforcement of contract, the standing instruction is for the Police to hands off and advise the parties to seek civil resolution of the dispute in a civil Court. See the case of ***Kure Vs COP (2020) LPELR - 49378 (SC)***; and ***Skye Bank Plc Vs Njoku & Ors (2016) LPELR - 40447 CA.***

In the case of ***Ogbonna Vs Ogbonna (2014) LPELR - 22308 CA; (2014) 23 WRN 48***, the Court of Appeal exposted as follows:

"...party that employs the police or any law enforcement agency to violate the fundamental rights of a citizen should be ready to face the consequences, either alone or with the misguided agency... The police have no business helping parties to settle or recover debts. We have also deprecated the resort by aggrieved creditors to the police to arrest their debtors, using one guise of criminal wrongdoing or another."

Coming to the instant case, it is apparent that the 1st Respondent has employed the services of the police to enforce the botched contract of sale between the 2nd Respondent and himself. The assertion that the vehicle in dispute is not the same vehicle which the Applicant gave to the 7th Respondent to sell for him is baseless. Furthermore, the assertion that the vehicle belongs to

one Eric Ogbeide is rather evasive. The Applicant has explained that the said Eric Ogbeide is his agent. Moreover, the said Eric Ogbeide is not laying any claim to the vehicle.

I find as a fact that the vehicle which the Applicant gave to the 7th Respondent to sell for him is the same vehicle which is being detained by the police at the Ahor Police Station.

Unfortunately, the police did not file any process to explain why they decided to dabble into this civil transaction by seizing the vehicle from the car stand of the 2nd Respondent and detaining same indefinitely. It is settled law that the Police, not being a debt recovery agency, has no business dabbling or getting involved in purely civil matters and any step taken by the Police in such matters is unlawful and wrongful. See the following cases: *Ihenacho Vs Nigeria Police Force* (2017) 12 NWLR (Pt 1580) 424; *Diamond Bank Plc vs opara* (2018) 7 NWLR (Pt 1617) 92; *EFCC vs Diamond Bank Plc* (2018) 8 NWLR (Pt 1620) 61; *Okafor Vs Assistant Inspector General of Police, Zone II, Onikan, Lagos* (2019) LPELR 46505(CA); and *Kure Vs Commissioner of Police* (2020) 9 NWLR (Pt 1729) 296.

I am of the view that the intervention of the police in this transaction culminating in the seizure and detention of the vehicle in dispute in this suit was clearly a breach of their statutory functions and a breach of the Applicant's right to his property.

From the available facts, the police were instigated solely by the 1st Respondent to carry out the unlawful seizure and detention of the vehicle. The 2nd and 7th Respondents were not part of the unlawful exercise, like the Applicant, they too were victims of the illegality.

The complaint of the 1st Respondent that this Application is an abuse of the process of the court is baseless because the Applicant is not a party to the suit which is pending in another court in respect of the failed contract of sale. As a matter of fact, the Applicant was never a party to the purported contract. I agree entirely with the submission of the learned counsel for the Applicant that there was no agency relationship between the Applicant and the 2nd Respondent that will authorise the 2nd Respondent to sell the Tipping Truck on behalf of the Applicant.

Overall, I am of the view that the Applicant has discharged the onus to prove that his fundamental right to his property has been violated by the 1st Respondent and the police. I therefore resolve the sole issue for determination in favour of the Applicant.

In this Application, the Applicant is claiming several reliefs including the sum of N100,000,000.00 (One Hundred Million Naira) as general damages.

It is trite law that once it is adjudged that the fundamental rights of an Applicant have been violated, damages are inferred and activated, as the Applicant is entitled to compensation in damages. The quantum of damages awardable is always at the discretion of the trial Court, depending on the gravity of the violation and claims/parties affected. See the following cases: *Iwununne Vs Egbuchulem & Ors* (2016) 40515 CA; *Ozide & Ors Vs Ewuzie & Ors* (2015) LPELR - 24482 CA; *Igweokolo Vs Akpoyibo & Ors* (2017) LPELR - 41882 CA; and *SSS & Ors V. Incorporated Trustees of the Peace Corps of Nigeria & Ors* (2019) LPELR-47274(CA) (Pp. 26-27 Paras. D). See also *Section 35(6) of the 1999 Constitution*.

In conclusion, I hold that this Application succeeds, and the Applicant is granted the following reliefs:

- 1) A Declaration that the Applicant as the legal owner has a proprietary interest and right in the DAF Tipping Truck with Chassis number 82978110002 and that the Seizure and Detention of the said Vehicle by the 1st, 2nd, 3rd, 4th, 5th and 6th Respondents, their agents, officers or representatives is illegal, unlawful, null and void and amounts to breach of his fundamental rights as enshrined in Section 43 and 44(1) of the 1999 Constitution of the Federal Republic of Nigeria (as amended);*
- 2) A declaration that the 1st, 2nd, 3rd, 4th, 5th and 6th Respondents cannot interfere with the Applicant's Right over the DAF Tipping Truck with Chassis number 82978110002 which was legally acquired oversea, Shipped to Nigeria and cleared at the Seaport and handed over to the 7th Respondent to advertise and place for sale for the sum of N59,000,000.00 (Fifty Nine Million Naira);*
- 3) A Declaration that the Respondents cannot dispossess the Applicant of the DAF Tipping Truck with Chassis number 82978110002 being a vehicle which the Applicant duly acquired and owns and which he has no intention of selling to the 1st Respondent;*
- 4) A Declaration that the Applicant did not direct or authorize any of the Respondents to negotiate price, receive purchase money, sell and transfer title of the DAF Tipping Truck with Chassis number 82978110002 on his behalf;*
- 5) A Declaration that the 1st Respondent did not buy the DAF Tipping Truck with Chassis number 82978110002 from the Applicant and cannot use the Police to dispossess the Applicant of the vehicle;*
- 6) A declaration that the 1st, 3rd, 5th and 6th Respondents have wrongly held unto the DAF Tipping Truck with Chassis number 82978110002 beyond the contemplated time for its sale, thereby leading to loss of income and profit by the Applicant;*
- 7) A Declaration that it is wrongful, illegal, ultra vires, and a violation of the Applicant's proprietary right in the DAF Tipping Truck with Chassis number 82978110002, for the 3rd, 5th and 6th Respondents to assist the 1st Respondent to seize and detain the said vehicle with the intention of stealthily and unlawfully using their coercive powers to release and hand over the said DAF Tipping Truck with Chassis number 82978110002 to the 1st Respondent;*
- 8) An Order directing the 3rd, 5th and 6th Respondents their agents, officers or representatives to immediately release the DAF Tipping Truck with Chassis number 82978110002 to the Applicant;*
- 9) An Order of injunction restraining the Respondents and their agents or privies from further interfering with the right of the Applicant over the DAF Tipping Truck with Chassis number 82978110002;*
- 10) The sum of N 5,000,000.00 (Five Million Naira) to be paid jointly and /or severally by the 1st, 3rd, 5th and 6th Respondents to the Applicant as general damages.*

The 1st, 3rd, 5th and 6th Respondents shall pay the sum of N200,000.00 (Two Hundred Thousand Naira) to the Applicant as costs for the action.

Hon. Justice P.A. Akhiero

JUDGE

22/09/2025

COUNSEL:

- 1. Mrs D.E. Eduwu.....Applicant*
- 2. Eric Evwierhoma Esq.....1st Respondent*
- 3. Mrs E.E. Ray-Eboigbe.....2nd Respondent*
- 4. Unrepresented.....3rd to 6th Respondents*
- 5. Famous Edafeyiwotu Esq.....7th Respondent*