IN THE HIGH COURT OF JUSTICE
OF EDO STATE OF NIGERIA
IN THE BENIN JUDICIAL DIVISION
HOLDEN AT BENIN CITY
BEFORE HIS LORDSHIP, HON.JUSTICE P.A.AKHIHIERO,
ON TUESDAY THE
7TH DAY OF DECEMBER, 2021

BETWEEN: ***SUIT NO: B/103M/2021***

GOODNESS IMAKPOKPOMWAN ESEWI……APPLICANT

AND

WEMA BANK PLC……RESPONDENT

RULING

This is a Ruling in respect of an application for the enforcement of Fundamental Rights brought pursuant to Order 2 Rules 1, 2, 3, 4 and 5 of the Fundamental Rights (Enforcement Procedure) Rules, 2009 and under Section 44(1) of the Constitution of the Federal Republic of Nigeria, 1999 (as amended) and under the inherent jurisdiction of the Court.

The Applicant is seeking the following reliefs:

I. **A DECLARATION** that it is a breach of fundamental right of the Applicant as guaranteed under Section 44 (1) of the Constitution for the Respondent to place a **Lien** on the account of the Applicant unlawfully;
II. **A DECLARATION** that it is a breach of the Applicant's right to property as guaranteed under Section 44(1) of the Constitution for the Respondent to prevent him from withdrawing the money he has in his **Account No. 0241501399** with the Respondent;
III. **AN ORDER** on the Respondent to immediately allow the Applicant to operate and have full access to his heard earned money in his **Account No. 0241501399** which contains his moveable property (money) with the Respondent unhindered in any way by the removal of all/any obstacles they have placed on the Account;
IV. **AN ORDER** of this Honourable Court on the Respondent to pay the sum of ₦100,000,000 (one hundred million naira) only in favour of the Applicant as damages for the illegal and unlawful Lien they placed on the Applicant's account which is a breach of the Applicant's fundamental right; and

V. Cost of action.

The grounds upon which the reliefs are sought are as follows:

1. The Applicant's fundamental rights are guaranteed under the Constitution of the Federal Republic of Nigeria 1999 (As Amended);
2. The Applicant as a Nigerian Citizen has the right to own moveable property in Nigeria;
3. By the conduct of the Respondent, the Applicant's fundamental right to own moveable property in Nigeria has been breached;
4. The Applicant's right to own property and do any lawful business he likes has been infringed upon by the Respondent when a lien is placed on his account with the Respondent without his consent and approval; and
5. By the provisions of section 46 of the Constitution of the Federal Republic of Nigeria 1999 (as amended), the Applicant has the right to seek redress from this Honourable Court.

The application is supported by an affidavit of 27 paragraphs and the written address of the learned counsel for the Applicant. At the hearing of this application, the learned counsel for the Applicant, ***E.O.Ofiyegbe Esq.*** adopted his written address as his arguments in support of the motion.

In his written address, the learned counsel for the Applicant, formulated two issues for determination as follows:

(a) Whether this Honourable Court ought to hold the Respondent's action as tantamount to a gross violation and abuse of the Applicant's Fundamental Right to own moveable property in Nigeria as guaranteed by the Constitution of the Federal Republic of Nigeria 1999, (As Amended)?; and

(b) Whether the Court can grant the reliefs sought by the Applicant?

Thereafter, the learned counsel argued the two issues together.

Opening his arguments, he submitted that the provision of Section 46(1) of the 1999 Constitution (as amended) provides that any person who alleges that any provision of chapter 4 of the Constitution has been, is being or likely to be contravened in any state in relation to him may apply to a High Court in that state for redress.

He submitted that at any time when a Court is confronted with a claim under the fundamental rights procedures, it is imperative that it should examine the reliefs sought, the grounds for such reliefs and the facts relied upon by the Applicant. He said that where the facts relied upon discloses a breach of the fundamental rights of the Applicant as the basis of the claim, there is a clear case for the enforcement of such rights through fundamental Rights (Enforcement Procedure) Rules. He cited the case of ***F.R.N. v. Ifegwu (2003) 15 NWLR (Pt.***

843) 180 and quoted the dictum of NIKI TOBI, J.S.C. at pages 216-217, paras. C-B.

He submitted that this Court has power to hear and adjudicate on this matter as the right of the Applicant has been infringed, violated and abused since the Respondent placed a lien on the Applicant's account unconstitutionally.

He further submitted that this Court has jurisdiction to entertain a matter of this nature, which seeks to enforce the observance of a fundamental right under chapter 4 of the 1999 Constitution (as amended) and he relied on the following cases: ***Kalu v. State (1998) 13 NWLR (Pt.583) 531 SC; Dayo Omosowan & Ors v. Chidozie (1998) 9 NWLR (Pt.566) @477. See also Grace Jack v. University of Agriculture, Markudi (2004) 5 NWLR (Pt. 865) 208 @ 226 and pages 52-55 of Falana's book on Fundamental Human Rights.***

Again, he submitted that the act and conduct of the Respondent is baseless and a gross violation of the fundamental right to own moveable property in Nigeria by the Applicant. He said that in his affidavit in support of this Application, the Applicant deposed to the facts that when he visited the Respondent on the 6th day of April, 2021 to withdraw the sum of N400, 000 (four hundred thousand Naira) for his business, he was denied the money when he had about N490, 000 (four hundred ninety thousand Naira) in his account with the Respondent. He further stated that when he requested from the cashier why he could not withdraw the sum of about N400, 000 (four hundred thousand Naira) when he had more than that in his account, the cashier wrote on the back of the cash withdrawal slip: ***"please check reason 4 lien"***. He said that on the 14th day of May, 2021 when he visited the Respondent to withdraw the sum of N192, 000.00 (one hundred ninety two thousand Naira) he was also denied same when he had about N209, 000.00 (Two Hundred Nine Thousand Naira) in his account.

He submitted that the Applicant's Constitutional right to own property has been violated by the Respondent and he relied on the case of ***Aigoro v. Com; L & H v. Kwara State (2012) 11 NWLR Pt. 1310, 111 at 133***

Counsel submitted that an Applicant, for the enforcement of his fundamental right who is able to prove it, is entitled to compensation even where no specific amount is claimed. He said that in this case a specific amount is claimed and he urged the Court to grant same to the Applicant and he cited the case of ***Duruku v. Nwoke (2015) 15 NWLR Part 1483, 417 at Pp. 482-483.***

Finally, he submitted that the Respondent has no right to place a lien on the Applicant's account unlawfully and he therefore urged the Court to grant this application.

In opposition to this application, the Respondent filed a Counter-Affidavit of 16 paragraphs and a Written Address of their counsel.

In his written address, the learned counsel for the Respondent, ***Osarodion M. Igiede Esq.*** formulated two issues for determination which he argued seriatim. The issues for determination are as follows:

i. Whether the Applicant is entitled to his claim; and

ii. Whether the Respondent is entitled to its counter claim.

ISSUE 1:
WHETHER THE APPLICANT IS ENTITLED TO HIS CLAIM

Arguing the first issue, the learned counsel submitted that the Applicant is not entitled to any of the reliefs claimed in the application. He said that the Applicant's claim is hinged on Section 44(1) of the Constitution of the Federal Republic of Nigeria, 1999 and he submitted that the Applicant is not entitled to the reliefs claimed as the Constitution provides exceptions to the right which he seeks to enforce.

He posited that Section 44(2) (e) of the Constitution explicitly provides that nothing in subsection (1) of that section shall be construed as affecting any general law "relating to the execution of judgments or orders of court." He referred to the case of ***LONGE MEDICAL CENTRE & ANOR v. AG, OGUN STATE & ANOR (2020) LPELR-49751(CA),*** where the Court of Appeal in determination of the above sections of the 1999 Constitution, held inter alia as follows:

"…It should however be noted that fundamental rights are not absolute. See Section 44(2) (a) of 1999 Constitution (supra) which provides as follows: "(2) Nothing in subsection (1) of this Section shall be construed as affecting any general law: - (a) for the imposition or enforcement of any tax, rate or duty". Furthermore, the right to freedom of movement is subject to the procedure permitted by law for the purpose of bringing a person before a Court of law or in execution of a Court order. See Section 35 of the 1999 Constitution (supra) and the cases of KALU VS. FEDERAL REPUBLIC OF NIGERIA (2016) 9 NWLR (PT. 1516) 1; HASSAN VS. ECONOMIC AND FINANCIAL CRIMES COMMISSION (2014) 1 NWLR (PT. 1389) 607; DANGABAR VS. FEDERAL REPUBLIC OF NIGERIA 2014) 12 NWLR (PT. 1422) 575." Per FOLASADE AYODEJI OJO, JCA (Pp 12 – 14 Paras E – E)"

Learned counsel submitted that the right so guaranteed by Section 44(1) of the 1999 Constitution, is made subject to the exceptions stated in Section 44(2) of the same Constitution. He maintained that the duty to obey every subsisting court order is non-negotiable and he relied on the decision of the Court of Appeal in the case of ***ELBARAKAT GLOBAL RESOURCES LTD v. GOVERNOR, SOKOTO STATE &ORS (2020) LPELR-50916(CA)*** where the court held thus:

"The settled position of the law is that the orders of Court, whether of this one or some other, whether valid or not must be obeyed until it is set aside, as long as it is subsisting; by all no matter how lowly or highly placed in the society. It has never been the law that a party can on its own volition decide to pick or choose, which orders to obey and which not to obey. It is even more serious a thing to disobey a valid and subsisting decision or order of a Court of law, just because the party considers that the said order ought not to have been made in the first place. If at all, a party considers that an order ought not to have been

made in the first place, it should be seen to be doing the needful by filing an Appeal against such an order it considers as standing against its interest rather than disobeying it and taking the risks of courting active legal dangers, with obvious unpleasant consequences." Learned counsel also referred the Court to the decision of the apex Court in the case of ***BABATUNDE & ORS vs. OLATUNJI &ANOR (2000) LPELR-697 (SC)***.

Thus he submitted that where a person, entity or institution acts in accordance with the provisions of the 1999 Constitution, that person, entity or institution cannot be accused of breaching the same Constitution. He therefore urged the Court to resolve this issue in favour of the Respondent and dismiss the claim of the Applicant.

ISSUE 2:

WHETHER THE RESPONDENT IS ENTITLED TO ITS COUNTER CLAIM.

Learned counsel submitted that the Respondent is entitled to its counter claim on the grounds stated in its counter affidavit.

Firstly, he submitted that the Respondent is obliged to obey every subsisting order of court and he relied on the following decisions: ***ACCESS BANK v. PETROAL (NIG) LTD (2017) LPELR-45198(CA); MOBIL OIL NIG. LTD V ASSAN (1995) 7 NWLR (PT. 412) PG. 129;*** and ***UWAZURUIKE & ORS. V. A.G.F. [2013] LPELR 20392.***

He emphasised that the Respondent was obliged to act in line with the order of court served on it, more so since the Applicant was a party to the suit where the said order was made. He posited that if the Applicant was not in agreement with the said order, he ought to have appealed against it and applied for a stay of execution. He said that the Applicant failed to do this and he relied on the case of ***ODON v. AMANGE & AANO (2008) LPELR-4681(CA)*** where the Court of Appeal inter alia held as follows:

"…For the sake of emphasis, an order once issued by a Court clothed with the requisite jurisdiction and competence must be obeyed by a party even if in his/its opinion the order was perverse. It does not lie in the mouth of a party and so cannot say that such order was void or invalid, irregular or wrong and that he/it will not obey same as the right and power to so declare reside in another Court."

Learned counsel submitted that the fundamental right to property of the Applicant does not exist in vacuum as it can be overridden in the face of legal justifications such as a court order. He referred to Section 44(2) (e) of the Constitution which explicitly provides that nothing in subsection (1) shall be construed as affecting any general law ***"relating to the execution of judgements or orders of court."***

He said that from the foregoing, it is explicit that an order of court can override the right provided by Section 44 (1) of the 1999 Constitution.

Finally, he submitted that on the whole, the application is misconceived, incompetent and the Respondent is entitled to costs against the Applicant for the filing this application in bad faith. He said that the Applicant was very much aware of the order of court which necessitated the action of the Respondent and he failed, refused and/or neglected to take steps to vacate the order, but turned around to file this gold-digging application.

He therefore urged the Court to resolve this issue in favour of the Respondent and hold that the Respondent is entitled to its counter claim.

Upon receipt of the Counter-Affidavit and the written address of the Respondent's counsel, the Applicant filed a further affidavit of 16 paragraphs and a reply on points of law.

In his reply on points of law, the learned counsel for the applicant submitted that the Respondent's purported counter affidavit and written address is incompetent and same should be struck out because the time allowed by the Rules of Court to file the written address and counter affidavit has elapsed and the Respondent was not granted any extension of time before filing the said process. He referred the Court to the case of ***Sanni v. Agara (2010) 2 NWLR (Pt. 1178) P. 378 Ratio 6 C.A***. Were the Court of Appeal held thus:

"On effect of failure to seek and obtain leave of court to file court process outside time limited therefor -

Where a process is filed outside the statutory period provided in the rules of court, and there is no application for leave to file same out of time and none was granted, the consequences is that such a process is incompetent and therefore liable to be struck out.[Anadi v. Okoli (1977) 7 SC; Olanrewaju v. B.O.N. Ltd. (1994) 8 NWLR (Pt. 364) 622; Adelekan v. Ecu-Line NV (2006) 12 NWLR (Pt. 993) 33 referred to.] (P. 401, paras. B-C)".

He also referred the Court to the case of ***Jimoh v. Min., F.C.T. (2019) 5 NWLR (Pt. 1664) P. 45 @ 54 Ratio 20 SC*** where the Supreme Court held thus:

"On need for deponent to affidavit to disclose source of information and belief in respect of every assertion in a specific averment-

By virtue of section 115(1), (3) & (4) of the Evidence Act, 2011, for every assertion in a specific averment in an affidavit, the deponent must disclose with particulars his source of information and belief. It is not enough for the deponent to set out in the preamble paragraph of the affidavit the fact that he had been authorized either by his principal or employer or the client to make the affidavit; and that he derived the facts averred in the affidavit in the course of his employment and/or from his personal knowledge and/or information generally. (Pp. 63-64, paras. H-A)."

He therefore urged the Court to strike out the counter affidavit and written address for failure to seek the leave of court before filing the same when the time has elapsed and for non-compliance with the provisions of Section 115(1), (3) & (4) of the Evidence Act, 2011.

He further submitted that it is trite law that for judgment, orders, legal documents to be admitted and relied upon by a court of competent jurisdiction, it must be certified and he relied on the case of ***Jimoh v. Min., F.C.T. (2019) 5 NWLR (Pt. 1664) P. 45 @ 55 Ratio 21 & 22 SC***.

He therefore urged the Court to disregard the purported order because it was not certified. More so, he alleged that the purported order does not have a suit number and it has been altered on its face and it does not represent an order of Court.

He submitted that the Respondent acted contrary to the provisions of the ***Fundamental Rights (Enforcement Procedure) Rules 2009 when he counter claimed against the Applicant. Order II Rule 6 of the Fundamental Rights (Enforcement Procedure) Rules 2009*** provide thus:

"6. Where the respondent intends to oppose the application, he shall file his written address within 5 days of the service on him of such application and may accompany it with a counter affidavit."

He therefore urged the Court to strike out the said paragraph 15 of the Respondent counter affidavit been contrary to the provisions of ***Order II Rule 6 of the Fundamental Rights (Enforcement Procedure) Rules 2009***. We beg to submit.

Finally, he submitted that in light of the foregoing, the application is unchallenged because there is no proper counter affidavit from the Respondent before this Honourable Court and he relied on the case of ***Egbo v. Anauche (2020) 4 NWLR (Pt. 1713) P. 82 @ 84 Ratio 2*** and he urged the Court to grant the application in the interest of justice.

At the hearing of this application, the learned counsel made some further oral submission thus.

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

In a civil suit, the person who asserts has the primary burden of proving the assertion. See the cases of ***Arum Vs Nwobodo (2004) 9 NWLR (Pt. 878) 411;*** and ***Olaleye Vs Trustees of ECWA (2011) 2 NWLR (Pt. 1230) 1***. This principle also holds true in allegations of breach of fundamental rights. See: ***Fajemirokun Vs Commercial Bank (Credit Lyonnais) Nig. Ltd (2009) 5 NWLR (Pt. 1135) 588, Onah Vs Okenwa (2010) 7 NWLR (Pt. 1194) 512.***

In the instant application, the Applicant has alleged that the Respondent has breached his right to property as guaranteed under Section 44(1) of the Constitution by preventing him from making any withdrawals from his account No. 0241501399 with the Respondent.

The Respondent did not deny the fact that they prevented the Applicant from making the said withdrawals, they alleged that they were acting upon a court order which they exhibited as Exhibit A in their counter-affidavit.

Before I consider the merits of this application, I intend to deal with some salient objections raised by the Applicant against the Counter-Affidavit filed by the Respondent which he said is fundamentally defective in several regards.

In the first place, he alleged that the Counter-Affidavit was filed out of time without leave of Court, contrary to the provisions of ***Order II Rule 6 of the Fundamental Rights (Enforcement Procedure) Rules 2009*** which stipulates thus:

"6. Where the respondent intends to oppose the application, he shall file his written address within 5 days of the service on him of such application and may accompany it with a counter affidavit."

In his affidavit and submissions before this Court, the learned counsel for the Respondent did not deny the fact that the Counter-Affidavit was filed out of time without the leave of the Court. Thus, the said Counter-Affidavit appears quite irregular. The issue now is whether the irregularity in filing is sufficient to invalidate the process.

On the effect of non-compliance with the rules on fundamental rights proceedings, ***Order IX Rule 1*** provides thus:

"1.Where at any stage in the course of or in connection with any proceedings there has, by any reason of anything done or left undone, been failure to comply with the requirement as to time, place or manner or form, the failure shall be treated as an irregularity and may not nullify such proceedings except as they relate to -

(i) Mode of commencement of the application.

(ii) The subject matter is not Chapter IV of the Constitution or African Charter on Human and Peoples Rights (Ratification and Enforcement) Act."

Thus, it is clear from the unambiguous provisions of ***Order IX Rule 1 of the Fundamental Right (Enforcement Procedure) Rules, 2009*** that non-compliance with the rule which prescribed the period for filing a counter affidavit by the respondent shall be treated as an irregularity by the Court. The Court even has no discretion in the matter as the word "shall" which denotes a command to the Court is used in that order. See ***OPARAOCHA & ANOR. V. OBICHERE & ORS. (2016) LPELR - 40615 (CA) AT 59 (B - F). ADUMU V. CONTROLLER OF PRISONS, FEDERAL PRISONS, ABA & ORS. (2013) LPELR - 22069 (CA) AT 38 - 39 (E - A).***

At this stage, I shall invoke the provisions of ***Order IX Rule 1 of the Fundamental Right (Enforcement Procedure) Rules, 2009*** to treat the non-compliance with the rules which prescribed the period for filing a counter affidavit and address as an irregularity.

The Applicant also challenged the validity of the alleged court order on the ground that Exhibit A was not certified in line with the provisions of the Evidence Act, that the purported order does not have a suit number and it has been altered on its face and it does not represent an order of Court. I have gone through the said Exhibit A and I observed that although Exhibit A was not properly certified

in accordance with the provisions of the Evidence Act, it has a suit number to wit: ***SUIT NO: KMD/CV/2021***. However, on the issue of certification, in the case of ***THE DIRECTOR GENERAL, DEFENCE INDUSTRIES CORPORATION OF NIGERIA & ANOR v. MR. MONDAY D. DINWABOR & ORS (2016) LPELR-41316(CA)***, the Court of Appeal exposited that the dominant position of the Courts is that copies of public documents attached to an affidavit as exhibits need not be certified true copies.

Also in the case of ***OJUYA VS NZEOGWU (1996) NWLR (pt.427) 713***, the Court opined thus:

"On a case decided on affidavit evidence, where the attached exhibits are not formally tendered as such evidence and the contents are not disputed, they cannot be dismissed by a wave of hand on mere technically..."

From the foregoing, I am of the view that the issue of improper certification of Exhibit A cannot vitiate the use of the document attached to the supporting affidavit.

Another objection to the Counter-Affidavit is that the deponent did not disclose the source of his information and belief in respect of every assertion. I think this objection is quite misconceived because one Brayan Igbinedion who deposed to the Counter-Affidavit stated in paragraph 1 that he is the Regional Legal Officer of WEMA BANK PLC, the Respondent in this suit by virtue of which position he is familiar with the facts of this matter. That is sufficient disclosure of the source of his information and belief.

On the whole, I hold that the Respondent's counter affidavit is quite valid and I will rely on it in the determination of this application.

At this stage, I am of the view that the sole issue for determination at this stage is ***whether the Applicant has established that the Respondent has breached his right to property as guaranteed under Section 44(1) of the Constitution by preventing him from making any withdrawals from his account No. 0241501399 with the Respondent***.

I observed that the Respondent is purportedly counter-claiming against the Applicant in this application. That is quite an unusual procedure which is not recognised under the ***Fundamental Right (Enforcement Procedure) Rules, 2009***. It must be understood that an action under the Fundamental Right Enforcement Procedure Rules is a peculiar action. It is a kind of action which may be considered as ***"Sui Generis"*** i.e. it is a claim in a class of its own though with a closer affinity to a civil action than a criminal action. The available remedy by this procedure is to enforce the Constitutional Rights of the citizens as enshrined in Chapter IV of the 1999 Constitution of the Federal Republic of Nigeria (as amended). See - ***RAYMOND S. DONGTOE VS CIVIL SERVICE COMMISSION, PLATEAU STATE & ORS (2001) 4 SCNJ Page 131.***

The Respondent has not disclosed any of its rights as enshrined in Chapter IV of the 1999 Constitution to entitle it to counter-claim under the rules. Thus the alleged counter-claim of the Respondent is dead on arrival.

Coming to the Applicant's right which is allegedly being infringed by the Respondent, it is settled law that the fundamental rights of a citizen are not absolute - ***Ukegbu V. National Broadcasting Corporation (2007) 14 NWLR (Pt 1055) 551 and Ukpabio V. National Film and Video Censors Board (2008) 9 NWLR (Pt.1092) 219***. The rights can be curtailed by the appropriate authorities where there are grounds for doing so - ***Dokubo-Asari V. Federal Republic of Nigeria supra and, Onyirioha V. Inspector General of Police (2009) 3 NWLR (Pt.1128) 342***.

As the Respondent's counsel rightly posited, the Applicant's claim is hinged on ***Section 44(1) of the Constitution of the Federal Republic of Nigeria, 1999.*** Meanwhile, ***Section 44(2) (e)*** explicitly provides that nothing in subsection (1) shall be construed as affecting any general law ***"relating to the execution of judgments or orders of court."***

See the case of **LONGE** ***MEDICAL CENTRE & ANOR v. AG, OGUN STATE & ANOR (2020) LPELR-49751(CA)*** which was aptly relied upon by the Respondent's counsel.

In the case of ***OLUSOLA OLORUNTOBA v. GUARANTY TRUST BANK PLC (2020) LPELR-49586(CA)***, which is almost on all fours with the present one, at the Federal High Court, the Respondent contended that it did not violate the Fundamental right of the Appellant because the freezing of his account was based on the order from a competent Court. In its judgment in favour of the Respondent, the Court of Appeal exposited thus:

"All the argument advanced by the Appellant to the effect that the order is worthless and therefore should not be obeyed is of no moment as the law on obedience to Court order is settled and it is to the effect that for as long as the order is from a competent Court, the Respondent is under obligation to obey it even if the order is not right or correct. The Respondent has an obligation to obey every order of Courts of competent jurisdiction served on it in relation to issues concerning accounts of its customers, and it would be acting outside its powers, to interrogate such orders in order to fault its authenticity so as to defy the directives contained therein."

Again in the case of ***LEADERS & COMPANY LTD. & ANOR v. MRS. A. S. KUSAMOTU (2003) LPELR-5805(CA)***, the Court of Appeal exposited thus: ***"It is necessary to stress that as long as an order of Court subsists, the person against whom it was issued has a plain and unqualified duty to obey such order. As long as the order is not stayed, discharged or set aside the person affected would not be heard to say that the order was irregular or void."***

From the foregoing authorities, it is evident that although the Applicant is vested with the constitutional right to own property such as money in his bank account, his right is clearly subject to a subsisting order of court as contained in

Exhibit A. Having been served with Exhibit A, the Respondent was under a bounding duty to obey the extant court order.

In the case of ***OBA AMOS BABATUNDE & ORS v. MR. SIMON OLATUNJI & ANOR (2000) LPELR-697(SC)***, the apex Court exposited on the options available to any person who is dissatisfied with any such subsisting order. They stated thus: ***"I think the option open to a person against whom an order was made or a judgment given is plain. He should apply to the Court to discharge the order or appeal against the judgment that it might be set aside as the case may be. This is good sense, for as long as the order or judgment existed, it must not be disobeyed".***

I am of the view that these are the only options open to the Applicant at this stage, it is not for him to file an application against the bank to enforce his alleged fundamental right which has been put on hold by the subsisting court order.

From the foregoing, it is evident that the action of the Respondent is justified by law. Thus the sole issue for determination is resolved in favour of the Respondent. Having resolved the issue for determination in favour of the Respondent, the application is accordingly dismissed with N100, 000.00 (one hundred thousand naira) costs in favour of the Respondent.

P.A.AKHIHIERO
JUDGE
7/12/2021

COUNSEL:
E.O.OFIYEGBE ESQ……..……APPLICANT
OSARODION M.IGIEDE ESQ……..RESPONDENTS