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IN THE FEDERAL HIGH COURT OF NIGERIA
IN THE DUTSE JUDICIAL DIVISION
HOLDEN AT DUTSE
ON WEDNESDAY THE 19TH DAY OF MARCH, 2013
BEFORE HIS LORDSHIP HON. JUSTICE S. YAHUZA
J U D G E

SUIT NO.FHC/DT/CS/07/2012

B E T W E E N:

ABUBAKAR HASSAN FULATA) - APPLICANT

A N D

1.HIGHER SHARI'A COURT KIYAWA)
2.JIGAWA STATE COMMISSIONER OF POLICE.) - RESPONDENTS

R U L I N G

This is a Motion on Notice dated 13th December, 2012 brought pursuant to
inherent powers of the Court.

The Motion is seeking for setting aside the judgment of the Court delivered
on 28th day of November, 2012. And for such further order or orders as the
Honourable Court may deem fit to make.

The ground for the application was that this proceedings sought to be
quashed by the Applicant was already struck out as at 5th November, 2012 when
the application was moved.


On page 3 of the record of proceedings of the Honourable Higher Sharia Court, Kiyawa, the Court is not only aware of the pendency of this suit in this Court but also aware that an order for stay of proceedings was issued as at 5th October, 2012.

Knowing fully well about order of stay pending, the Court on 22nd October, 2012 held proceeding in this matter whereby a purported settlement was coerced in the eye of the Chief Law Officer of the State, who has sworn to protect and abide by the law. Since this Honourable Court has intervened on 17th September, 2012, it is only honourable for all parties concern to stay action in the matter. This is more especially the fact that even the Learned Attorney-General of the State is fully aware of the development in the case.

Therefore the Applicant in this Motion cannot rely on the proceedings of Higher Sharia Court Kiyawa dated 22nd October, 2012 because the proceedings of that Court held on 22nd October, 2012 was done in breach of the order of this Honourable Court dated 4th October, 2012. This is because when the Court granted the Applicant leave to apply for ceriorai, the Court equally made a consequential order that the leave granted operates as a stay of all actions. In ***MOBIL OIL AND ANOTHER VS. STASSAN (1995)9 SCNJ P. 97 at 100 at 9*** where

The Supreme Court said that one cannot disobey an order of the Court and there after come to the Court for redress.

I hold that this application must fail because the proceedings in Higher Sharia Court, Kiyawa on 22nd October, 2012 was done in violation of the order of this Court dated 4th October, 2012. Therefore the decision entered on 28th November, 2012 remains valid.


S. YAHUZA
JUDGE
19th March, 2012