

**IN THE FEDERAL HIGH COURT OF NIGERIA
IN THE ABAKALIKI JUDICIAL DIVISION
HOLDEN AT ABAKALIKI
ON THURSDAY THE 19TH DAY OF JANUARY, 2017
BEFORE HIS LORDSHIP
HON JUSTICE M. L. ABUBAKAR**

JUDGE

CHARGE NO. FHC/AI/CS/2/2016

BETWEEN

1. E. A. AROH AND SONS LTD } PLAINTIFFS
2. JOEL OKORO }

AND

1. PAULINUS OKORO }
2. AITOGAF MINING } DEFENDANT'S
3. MR. BASIL EBULUGEME }

1st Plaintiff represented by the 2nd plaintiff and 1st Defendant present.

Chief Emechi Onyia SAN- 2nd -4th Defendants

With I. M. Okafor (Miss)

F. C. Ngwoke - Plaintiff

O.J. Nwanja - 1st Defendant and party

With E. E. Obiahu seeking to be joined.

RULING ON APPLICATION ON NOTICE

This Ruling relates to an application filed by one C. A. Aiyamekhue Esq. pursuant to order 9 Rules 4 and 5 of the Rules of this court seeking for the following orders:-

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- (1) An order allowing the joinder of Green Field Metal Ltd and Henry Ahanotu as Defendants together with the current three Defendants in this suit.
- (2) An order of this court upon the joinder of the Applicants and Defendants to direct that the writ of summons and statement of claim be amended to reflect the joinder for purposes of filing statement of defence in this suit.
- (3) And for such order(s) as the court may deem fit to make in the circumstances.

In support of the Application is a 20 paragraphs Affidavit and annexed are Exhibits CAA1 to CAA 14 respectively. There is also a written address where four (4) issues were raised for determination. He urged the court to grant the application.

In reaction, the 1st plaintiff informed the court that they are not objecting to the application. However, the counsel to the 2nd and 3rd Defendants raised objection on the ground that even though they did not file any counter-Affidavit they are entitle to object on point of law. He submitted that this court lacks jurisdiction to hear and determine both the main suit and this application. He referred to the reliefs 1, 2 and 3 of the statement of claim of the plaintiffs and argued that they deal with illegal mining, and injunction. He added that the whole issue relates to ownership of land which this court doesn't have jurisdiction on. He referred to section 7 of the Federal High Court Act and urged the court to struck out the application.

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On point of law, the counsel to the parties wanting to be joined, submitted that the submission of the counsel to the 2nd and 3rd Defendants are misconceived and unfounded. He added that the counsel did not file any counter-Affidavit to their application and that he would not like to comment on the issue of jurisdiction at this stage as they are yet to be joined as parties and he doesn't want to delve into the main issue of this suit. He added the objection of the counsel amounted to jumping the guns and urged the court to disregard it and grant their application.

Those are the submissions of counsels to both parties. The issue for determination is whether the Applicant's are entitled to the relief sought.

I have carefully considered the Application and all the argument made. I have to agree with the submissions of the counsel to the parties wanting to be joined that it is too early to raise the issue of jurisdiction at this stage when issues have not been properly joined. The counsel to the 2nd and 3rd Defendants is advised to wait till after issues are fully joined and bring his application on jurisdiction. In the absence of any counter-Affidavit to this application and none objection by the 1st plaintiff, the court has no other option other than to grant the application. It is hereby granted accordingly. The return date is 6/3/2017 for further mention.

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19/1/17