

**IN THE MAGISTRATE COURT OF RIVERS STATE OF NIGERIA,**  
**IN THE ELIMGBU MAGISTERIAL DISTRICT,**  
**HOLDEN AT ELIMGBU.**

BEFORE HIS WORSHIP A. E. FUBARA ESQ., SITTING AS CHIEF MAGISTRATE COURT  
1, ELIMGBU, THIS MONDAY, THE 3<sup>RD</sup> DAY OF JULY 2023.

	<b>Suit</b>	<b>Nos.:</b>
<b>EMC/CSS/DL/001/2023</b>		
<b>BETWEEN</b>		
<b>PASTOR BARINYIMA NEEDOM</b> -----		<b>CLAIMANT</b>
<b>AND</b>		
<b>THE PRINCIPAL, FAITH ACADEMY</b> -----		<b>DEFENDANT</b>

Claimant is present.  
Defendant is present.

**APPEARANCES:**

**Claimant:**

Nil.

**Defendant:**

L. W. Nzidee, Esq.

**RULING**

This is my ruling on this matter.

On the 3rd day of July 2023, a date fixed for the defense of this suit, the defendant, through counsel, raised a submission of No Case to answer, orally. In his argument, counsel had made the point that the defendant is not a juristic person and lacks the capacity to sue or be sued. He also argued that the claimant did not comply with Art. 2 (a) of the Small Claims Court Practice Direction, 2023.

The claimant had urged the Court to disregard the arguments of the defense counsel. I hereby take under advisement the arguments on either side.

To begin with, a non-juristic person lacks the capacity to sue or be sued. *ATHANACIOUS V EWA* [2015] LPELR-40589 (CA). Similarly, it's the law that only juristic persons, with legal endowments with capacity to sue or be sued.

By law, an artificial person is an entity, such as a corporation, created by law and given certain legal rights and duties of a human being, a being, real or imaginary, who, for the purpose of legal reasoning is treated more or less as a human being. *MOSES v NBA* [2019] LPELR-46918 (SC).

In *FITA MINNA v OKOLI* [2011] LPELR-9053 (CA), a juristic person is either a natural person, in the sense of a human being of the requisite capacity, or an entity created by the law, which includes an incorporated body and special artificial being created to sue and be sued. cf. *OKAFOR v ASOH* [1999] 3 NWLR (Pt. 593) 35.

The common thread from the above expressions is that a non-natural juristic person derives life from the words of a legislation.

In the instant case, the Principal of a school cannot be said to be a juristic person in the proper sense of the word put differently, I am not aware of any extant legislation that donated life to any entity to be known and addressed as Principal of Faith Academy.

With regards to the second point raised by the defense counsel, I wonder if he did not see nor avert his mind to FORM RSSC1 – Letter of Demand – which is in the case file. In fact, a letter of demand is the first process, to be undertaken by a claimant, in the commencement of an action in the small claims Court.

Counsel's argument herein is hereby discountenanced.

Beyond these points, I have duly considered the case presented by the claimant and I am of the opinion that the Small Claims Court is not the proper arena for his litigation.

As an important point of reckoning, a Small Claims Court is to be used for the recovery of a debt. A debt has been expressed to mean a sum of money due from one person to another and an action for recovery of debt would lie where the sum claimant is a liquidated or certain sum, arising from contract or other circumstances upon which one would be implied. cf. *NIPOST v INSIGHT ENGINEERING Co. Ltd.* [2006] LPELR-8240 (CA); *FRANZIMEX (Nig.) Ltd. v DOATEE CONCEPTS (Nig.) Ltd.* [2010] LPELR-4173 (CA).

In the instant case, the claimant is claiming a lump sum of money that includes damages for loss of monies he kept in his bag in his room in the school, which the Principal complained of broke into and left open and was stolen; his out of pocket expenses; and sundry salary deductions. As constituted, the claimant's claim cannot be said to be a debt and, as such, is not awardable.

Suffice to state that, even though the defendant had named his address a No Case Submission, I deem same as an objection challenging the jurisdiction of this Court. With the points unearthed as a result, I am moved to strike out this claim.

Consequently, this suit is struck out.

Parties shall bear their respective costs

I make no further order(s).

Signed:

Alatuwo E. Fubara Esq.

[Chief Magistrate]

