

**IN THE FEDERAL HIGH COURT OF NIGERIA  
IN THE AWKA JUDICIAL DIVISION  
HOLDEN AT AWKA  
ON MONDAY 26<sup>TH</sup> DAY OF MAY 2014  
BEFORE THE HONOURABLE JUSTICE I.B. GAFAI  
JUDGE  
SUIT NO: FHC/AWK/CS/112/2014**

**BETWEEN:**

1. BISWANATH HOSEIRY MILLS LTD. ... PLAINTIFF  
(Suing on its behalf and as  
representatives of all persons  
engaged in the business of selling,  
offering for sale and distributing  
garments, footwear and headgears  
bearing the mark "LUX PREMIUMS")

A N D

NDUBISI C. OKEKE ... DEFENDANT

Applicant absent.

U. C. Ezugha for the Plaintiffs/Applicants.

**RULING ON THE PLAINTIFFS'  
EX-PARTE MOTION DATED 14/5/2014**

By their twin motions, one on notice and the other ex-  
parte, both dated and filed on the 14<sup>th</sup> of May 2014, along

2.


with the substantive suit, the Applicants seek by the motion ex-parte orders of interlocutory injunction and Anton Pillar against the Defendant, pending the hearing and determination of the motion on notice. The motion is brought under the provisions of Order 26 Rule 8 of the Rules of this Court and is supported by a 24 paragraph affidavit of the 2<sup>nd</sup> Plaintiff and accompanied by a written address of the learned Counsel for the Plaintiffs.

I have carefully considered the entire facts contained in the affidavit in support of the motion as well as the 4 annexure attached to the affidavit and labelled exhibits "A" to "D." I have similarly considered the written address of the learned Counsel for the Plaintiffs, more particularly on his submission on the lone issue he formulated therein.

Much as I am impressed by the rich submissions of the learned Counsel for the Plaintiffs, I do not however, have a settled mind to grant the Reliefs sought by way of ex-parte motion in view of my recent Ruling on the a related criminal suit instituted at the instance of the Plaintiff herein. Undoubtedly, they are two different cases, indeed under different procedure Rules. Notwithstanding, there is need for the Court to be very cautious so as not to send the wrong signals of partiality to the Defendant. It is therefore best that this motion be heard on notice. All things being equal I do not foresee any reasons


3.

why the whole suit, including the motion on notice may not be heard to completion within one month. Thus, instead of granting the orders sought in this motion, I order that the motion on notice and the substantive suit if not already served be immediately served on the Defendant and the motion on notice shall be heard on a date now to be suggested by the learned Counsel for the Plaintiffs. This motion thus now stands struck out.

  
**I. B. GAFAI**  
**JUDGE**  
26/05/2014

Mr. Ezugha:- I suggest 17/6/2014.

Court: Not convenient to the Court in view of congested Court diary. Adjourned to 6<sup>th</sup> – 9<sup>th</sup> October 2014 for hearing of the motion on notice and the substantive suit.

  
**I. B. GAFAI**  
**JUDGE**  
26/05/2014