

**IN THE HIGH COURT OF FEDERAL CAPITAL TERRITORY
IN THE ABUJA JUDICIAL DIVISION
HOLDEN AT ABUJA**

BETWEEN:

FCI/HC/NY/M/376/2025

Suit No. CV/2358/2022

ALHAJI MAMMAN ZUBAIRU..... PLAINTIFF
(TRADING UNDER THE NAME AND STYLE OF MOH'D ZUBAIRU AND BROTHERS)

AND

1. ABDULRAHMAN MOHAMMAD
2. DAILY NEEDS DISTBUTORS LIMITED.....DEFENDANTS
3. FEDERAL CAPITAL DEVELOPMENT AUTHORITY
4. MINISTER OF THE FEDERAL CAPTAL TERRITORY, ABUJA



MOTION ON NOTICE

**BROUGHT PURSUANT TO ORDER 8 RULES 1 AND 3, AND ORDER 11
RULES 35, AND 38 (1) OF THE HIGH COURT OF THE FEDERAL
CAPITAL TERRITORY ABUJA (CIVIL PROCEDURE) RULES 2025
AND UNDER THE INHERENT POWERS OF THIS COURT**

TAKE NOTICE that this Honourable court shall be moved on the.....day of
....., 2025 at the hour of 9'Oclock in the forenoon or so soon thereafter
as Counsel may be heard on behalf of the Plaintiff/Applicant praying for the
followings:-

1. **AN ORDER** for leave of this Honourable Court substituting the name of the Plaintiff, **ALHAJI MAMMAN ZUBAIRU (deceased)** with his biological son **ALHAJI SANI MAMMAN ZUBAIRU** to stand as the legal representative of the Plaintiff and his Estate by reasons of the Plaintiff's death.
2. **AN ORDER** of this Honourable Court substituting the name of the Plaintiff, **ALHAJI MAMMAN ZUBAIRU (deceased)** with his biological son **ALHAJI SANI MAMMAN ZUBAIRU** to stand as the legal representative of the Plaintiff and his Estate by reasons of the Plaintiff's death.
3. **AN ORDER** of this Honourable Court deeming the name of **ALHAJI SANI MAMMAN ZUBAIRU (deceased)** as the Plaintiff in this suit.
4. **AND FOR SUCH ORDERS OR FURTHER ORDERS** as this Honourable Court may deem fit to make in the circumstances of this suit.

fee paid 412 ✓

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SIN 2155119*

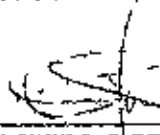
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sig. 19/9/2025
Jm v*

TAKE FURTHER NOTICE that the grounds for this application are as follows:

- a. The Plaintiff, ALHAJI MAMMAN ZUBAIRU died 20th July, 2025.
- b. That in the interest of justice, the Plaintiff's name needs to be substituted with another name.
- c. The family of the deceased Plaintiff, ALHAJI MAMMAN ZUBAIRU (deceased) appointed ALHAJI SANI MAMMAN ZUBAIRU as the Plaintiff and representative in this suit.

Dated this 1 day July 2025.




GODWIN OJEBIYI, ESQ
Dr. KABIRU ADAMU, ESQ.
MOHAMMED SALIHU, ESQ.
JULIET O. NDUKA, ESQ.

NORTHEdge ATTORNEYS,
Plaintiff/Applicant's Counsel
3rd Floor, Bank of Industry Building
No. 18, Muhammadu Buhari Way,
Kaduna State
08034510087, 08034770177
Address for Service within Jurisdiction:
Hakim Bakare & Associates
No. 3, Sifax Street, Wuse Zone 4,
Abuja, 08067111131

For service on the Defendants/Respondents

1 and 2nd Respondents

C/o Counsel

Levite Solicitor's and Arbitrators

Suite SF 22, Anfara's Plaza

First Avenue, Gwarimpa, FCT, Abuja

08033661414, 08034812254

or

Area 'A' Nyanya Shopping Complex,

Federal Capital Territory,

Abuja.

3rd & 4th Defendants

Federal Capital Territory, Abuja.

**IN THE HIGH COURT OF FEDERAL CAPITAL TERRITORY
IN THE ABUJA JUDICIAL DIVISION
HOLDEN AT ABUJA**

Suit No. CV/2358/2022

BETWEEN:

**ALHAJI
ZUBAIRU.....PLAINTIFF/APPLICANT****MAMMAN**
**(TRADING UNDER THE NAME AND STYLE OF MOH'D ZUBAIRU AND
BROTHERS)**

AND

- 1. ABDULRAHMAN MOHAMMAD**
- 2. DAILY NEEDS DISTBUTORS LIMITED.....DEFENDANTS**
- 3. FEDERAL CAPITAL DEVELOPMENT AUTHORITY**
- 4. MINISTER OF THE FEDERAL CAPTAL TERRITORY, ABUJA**

AFFIDAVIT IN SUPPORT OF MOTION ON NOTICE

I, Blessing Rita Onoja, Adult Female of No. 18 Muhammadu Buhari Way Kaduna BOI Building Kaduna State, do hereby make Oath and ststate as follows ;

1. That I am a litigation secretary in the law firm of Northedge Attorneys, the firm representing the applicants in this matter.
2. That by virtue of my position as afore-stated I am conversant with facts of this case
3. That I have the consent and authority of the applicants and my employers to depose to this affidavit.

- a) That I heard from **ALHAJI SANI MAMMAN ZUBAIRU** while briefing Godwin Ojebiyi one of he Counsel handling the Suit at aforementioned address on the 10th of September, 2025 at the hour of 11am, which I believed to be true .
- b) That during the pendency of this suit the Plaintiff suddenly fell sick on the 20th of July, 2025 and was rushed to the Aminu Kano Teaching Hospital (AKTH), Kano but died that very day.
- c) That the family of the Plaintiff has resolved to continue the case against the Defendants to its final conclusion.

- d) That the family of the deceased Plaintiff also resolved and appointed **ALHAJI SANI MAMMAN ZUBAIRU** to stand as the legal representative of our deceased plaintiff in this case till the end of the case.
- e) That this Suit cannot continue without the Substitution of the deceased plaintiff.
- f) Defendants/Respondents will not be prejudiced by the granting of this application.
- g) That it is in the interest of justice to grant this application.

4. That I depose to this Affidavit in good faith believing same to be true, correct and in accordance with the Oaths Act.

Blessing
DEPONENT

Sworn to at the FCT High Court Registry, Abuja

This 19 day of Sept 2025



IN THE HIGH COURT OF FEDERAL CAPITAL TERRITORY
IN THE ABUJA JUDICIAL DIVISION
HOLDEN AT ABUJA

BETWEEN:

Suit No. CV/2358/2022

ALHAJI MAMMAN ZUBAIRU (TRADING UNDER THE NAME AND STYLE OF MOH'D ZUBAIRU AND BROTHERS) PLAINTIFF/APPLICANT

AND

1. ABDULRAHMAN MOHAMMAD
2. DAILY NEEDS DISTBUTORS LIMITED.....DEFENDANTS
5. FEDERAL CAPITAL DEVELOPMNET AUTHORITY
6. MINISTER OF THE FEDERAL CAPTAL TERRITORY, ABUJA

WRITTEN ADDRESS IN SUPPORT OF MOTION FOR
SUBSTITUTION OF THE SOLE PLAINTIFF WITH ALHAJI SANI
MAMMAN ZUBAIRU AS HIS LEGAL REPRESENTATIVE

1.0 INTRODUCTION

This is an Application for substituting the name of the Plaintiff, ALHAJI MAMMAN ZUBAIRU (deceased) with the name of ALHAJI SANI MAMMAN ZUBAIRU. This Application is brought pursuant to Order 8, Rules 1 and 3 and Order 11, Rules 35 and 38 (1) of the High Court of the Federal Capital Territory, Abuja (Civil Procedure) Rules 2025 and under the inherent jurisdiction of this Honourable Court.

The Application is praying for the prayers as contained on the motion paper and it is supported by 11 paragraph affidavits deposed to by ALHAJI SANI MAMMAN ZUBAIRU, the Plaintiff son. My lord, we rely on all the paragraphs of the Affidavit.

2.0 BRIEF STATEMENT OF THE FACTS

The facts relevant to the application are as contained in the Affidavit in support of this humble Application. The Plaintiff filed a case of trespass and recovery of two plots of land lying and situate at Gbazango Phase II Layout, along Kubwa Express Way in Bwari Area Council, the FCT, Abuja.

However, during the pendency of the matter the Plaintiff died on the 20th of July, 2025. The matter being a case against the Defendants both in rem and in personam needs to continue to ensure that justice is done to the Plaintiff and the matter concluded successfully before this honorable court. The application is necessitated because the

court and Defendants need to be informed of the death of the Plaintiff and the Plaintiff substituted with his legal representative in person of Alhaji Sani Mamman Zubairu for the case to continue. Therefore, leave and permission of this court is needed to substitute the deceased plaintiff, with his legal representative. Hence, this application.

3.0 ISSUE FOR DETERMINATION

The sole issue that arises for determination by this Court is:

WHETHER OR NOT THE APPLICANT/PLAINTIFFS ARE ENTITLED TO THE PRAYERS SOUGHT

4.0 LEGAL ARGUMENTS ON THE ISSUE

We begin by submitting that this Court has the power to consider and grant the application to substitute either the Plaintiff (now deceased) or the defendant where and when the need arises. This is because despite the death of the Plaintiff, the course of this action is an action in rem which survives and need to continue to ensure the rights of the Plaintiff are protected and the Plaintiff's interest in this case are proved before this honorable court. This Court has the power to order the substitution and the continuation of the proceedings in this matter pursuant to Order 35 of the FCT High Court (Civil Procedure) Rules 2025 which provides that:

"The death of a plaintiff or defendant shall not cause a suit to abate if the cause of action survives."

We also refer and rely on Order 38 Rule 1 of the same FCT High Court rules which provides that:

"In case of the death of a sole plaintiff, or sole surviving plaintiff, the Court may, on the application of the legal representative of the deceased sole plaintiff, enter the name of that representative in the place of the plaintiff in the suit, and the suit shall thereupon proceed."

The above rule of this court empowers the court to substitute a deceased plaintiff and to enter the name of his legal representative in the suit and to carry on with the suit and proceedings where death occurs of the Plaintiff.

We also rely on the affidavit in support of this application, which shows that the biological son of the deceased Plaintiff in person of Alhaji Sani Mamman Zubairu sworn and affirmed before this court that the Plaintiff is now dead. The affidavit also shows that the action against the 1st and 2nd Defendants relates to trespass and ownership of landed properties in dispute which was in the hands and custody of the 1st and 2nd Defendants during his life. Therefore, we submit that the action survives and should continue against the Defendants by the legal representative of the Plaintiff.

We also submit that the court has the power to order a substitution of a deceased person. It is settled law that where the death of a party occurs and the action survives, the personal or legal representative of the deceased can be substituted for the deceased. We rely on the supreme court decision in the case **Eyesan vs. Sanusi (1984) 5 NSCC 271 at 283**, where Obaseki JSC that:

"If the cause of action is one that survives the death of either party, appointment of a person or persons to carry on proceedings in place of the deceased is a necessary function of the court either of first instance or of appeal"

It is therefore our humble submission that based on the above authorities and on the strength of the affidavit this Honorable Court is indisputably vested with the discretionary power to grant this application for substitution of the deceased Plaintiff with his legal representative.

5.0 CONCLUSION

In conclusion, we submit that this court can exercise its direction in granting this application. We urge this court to grant the application in the interest of justice and fair hearing. We humbly so urge my lord to so hold. We are most obliged.

Dated this _____ day _____, 2025.



GODWIN OJEBIYI, ESQ.
Dr. KABIRU ADAMU, ESQ.
MOHAMMED SALIHU, ESQ.
JULIET O. NDUKA, ESQ.

NORTHEEDGE ATTORNEYS,
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1 and 2nd Respondents
C/o Counsel
Levite Solicitor's and Arbitrators

Suite SF 22, Anfara's Plaza
First Avenue, Gwarimpa, FCT, Abuja
08033661414, 08034812254

or

Area 'A' Nyanya Shopping Complex,
Federal Capital Territory,
Abuja.

3rd & 4th Defendants
Federal Capital Territory, Abuja.
Betty a. UMEGBULEM Esq
08052747232

16/oct/25 - 12pm
for 24/7/25 hearing