

IN THE MAGISTRATE COURT OF LAGOS STATE
IN THE YABA MAGISTERIAL DISTRICT
HOLDEN AT COURT 2, YABA
TODAY MONDAY THE 26TH DAY OF JANUARY 2026
BEFORE HIS HONOUR A.I.O ALAKA (MRS).

SUIT NO. MCY/2939/CIV/2025

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BETWEEN

MARY TINUOLA OGUNDIPE

CLAIMANT/RESPONDENT

AND

1. MR. TALABI KOLAWOLE

2. OGUNDIPE OLATUNDE

3. INCORPORATED TRUSTEES OF SAINTS DEFENDANTS/APPLICANTS
COMMUNITY CHURCH

AND

MR. FEMI ODEBODE

PARTY SOUGHT TO BE JOINED

RULING

The Claimants/Respondents commenced this action by a claim for possession dated 30/7/2025 in respect of the premises/property at No. 7, Igboji Road, Yaba, also known as 6, Oweh Street, Yaba, Lagos State.

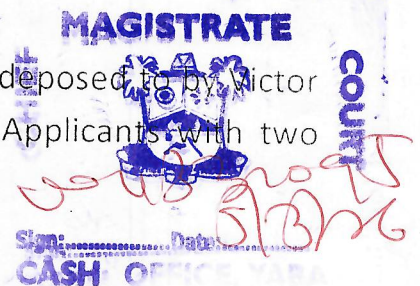
By a motion on notice dated 26/11/2025 brought pursuant to Order 4 Rule 2(1) of the Lagos State Magistrates' Courts (Civil Procedure) Rules 2009 and the inherent jurisdiction of this Honourable Court, the Applicants seek:

1. An order joining Mr. Femi Odebode as the 4th Defendant in this suit.
2. And for such order or further orders as the Honourable Court may deem fit to make in the circumstances of this application.

The application is supported by thirteen paragraph affidavit deposed to by Victor Kolawole, a Litigation Clerk in the firm of Counsel to the Applicants with two

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exhibits attached. A written address was also filed with the application wherein Counsel for the Applicants, T.O. Ajayi formulated an issue for determination namely whether from the facts and circumstances of this case, this Honourable Court is sufficiently empowered to grant the Defendants/Applicants' relief as contained on the face of the motion paper.

In response to the application, the Claimant/Respondent filed and deposed to twelve paragraph counter affidavit with five exhibits. Counsel for the Respondent, Emeke Ananyi filed a written address dated 3/12/2025 and raised an issue for determination namely, whether in view of the claim before the Court as well as the affidavit evidence, the party sought to be joined is a necessary party and whether the questions in the suit can be determined without the presence of the party sought to be joined.

Having gone through the Applicants' application, the counter affidavit as well as the written addresses of both Counsel, the issue for determination is whether from the facts before the Court, the person sought to be joined is a necessary party and ought to be joined.

The principles governing joinder of parties have been reiterated in several cases. In the case of **Okoli V. Orjiakor (1997) 1 NWLR Pt. 479, 48**, the Court enumerated some factors to be taken into consideration in determining whether to order joinder of a party namely:-

1. Whether the party is aggrieved or likely to be aggrieved by the result of the litigation to the extent that he will be directly, legally or financially affected by the result of the litigation.
2. To enable the Court fully, completely and effectually deal with the suit in order to frustrate or stop a possible future litigation on it.
3. To avoid multiplicity of suits arising from the same subject matter or res.

The law is settled that the test for joinder is whether the presence of the person sought to be joined is necessary to enable the Court effectually and completely adjudicate upon and settle the questions involved in the suit. In other words, the Court must also be satisfied that the party sought to be joined is so vital that justice

~ 2 ~

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CHIEF MAGISTRATE COURT

Sign: _____ Date: _____
CASH OFFICE, YABA

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cannot be done in his absence. See the case of **Carrena & Ors v. Akinlase & Ors (2008) LPELR-833 (SC)**.

The present action is one for recovery of possession, arrears of rent and mesne profits. It is therefore a possessory action founded on an alleged landlord-tenant relationship, and not an action for declaration of title to property. At this stage, the Claimant has testified and closed her case. The Defendants are yet to open their defence. The issues calling for determination by the Court in that substantive case are narrow and revolve around whether the Claimant has established a right to possession and entitlement to the ancillary reliefs claimed.

The party sought to be joined is neither alleged to be in possession of the premises nor a party to the tenancy complained of. The Defendants can, within the confines of their defence, raise whatever facts they deem relevant to challenge the Claimant's claim without the necessity of joining a third party. The Court is not persuaded that the absence of the party sought to be joined will prevent the Court from effectually determining the issues before it.

Furthermore, the Court is mindful that joinder should not be used as a device to widen the scope of a simple possessory claim or to occasion undue delay, particularly where the Claimant has already closed her case. To grant the Applicants' application at this stage will inevitably reopen proceedings and occasion injustice.

In the circumstance, I hold that the party sought to be joined is not a necessary or desirable party for the determination of this suit. Accordingly, the Applicants' motion on notice dated 26th November 2025 fails and is hereby refused.

LAGOS STATE
Court
Date: 26/1/2026
Signature: [Signature]
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SSGRO S. A. (MCR)
Executive Officer (GTD)
Lagos State Judiciary
A.I.O Alaka (Mrs)
Senior Magistrate 1
26th January 2026

MAGISTRATE
[Signature]
Date: 5/3/26
CASH OFFICE, YABA

~ 3 ~

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