

IN THE HIGH COURT OF JUSTICE OF EDO STATE
IN THE FUGAR JUDICIAL DIVISION
HOLDEN AT FUGAR

BEFORE HIS LORDSHIP THE HONOURABLE JUSTICE O.A. OTAMERE ON THE 26TH DAY
OF JUNE, 2025

SUIT NO:HFU/4/2025

BETWEEN:

1. HON. SOLOMON IMHONKAI OBOMIGHE
2. HON. FIDELIS AGBAIZA

}

.....CLAIMANTS

AND

1. HON. CEPHAS YAKUBU
2. MARWAN YUSUF
3. OJADI SYLVESTER
4. ROSEMARY UMASABOR
5. OMOH OGIATOR
6. BENJAMIN OSUMAH
7. MONDAY AMAGBOR
8. PAUL OSHIOTSE
9. ODEMOKPA OZIMAH
10. FRIDAY IKHANE
- (Sued As Councillors Of Etsako Central Local Government Legislative Council)
11. ETSAKO CENTRAL LOCAL GOVERNMENT COUNCIL
12. THE CHAIRMAN OF ETSAKO CENTRAL LOCAL GOVERNMENT COUNCIL
13. THE VICE CHAIRMAN OF ETSAKO CENTRAL LOCAL GOVERNMENT COUNCIL
14. THE INSPECTOR GENERAL OF POLICE

}

.....DEFENDANTS

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JUDGMENT

The Claimants, vide an Originating Summons dated 1/5/2025 and filed 6/5/2025, instituted this action wherein they posed the following questions for determination:

1. Whether upon the proper, correct and dispassionate interpretation of the provisions of Section 19(1-2) of the Edo State Local Government Law 2000, (as amended in 2002), the purported removal/impeachment of the Claimants from Office of the Chairman and Vice Chairman of Etsako Central Local Government Council, Edo State by the 1st to 10th Defendants, purporting to act on behalf of the 11th Defendant, without Notice of any allegation, signed by not less than two-third of the membership of Etsako Central Legislative Council of Edo State, to the Leader of the Legislative Council, stating that the Claimants are guilty of gross misconduct, or at all, is unconstitutional, illegal, null, void and of no effect whatsoever.
2. Whether upon the proper, correct and dispassionate interpretation of the provisions of Section 19 (3-4) of the Edo State Local Government Law 2000, (as amended in 2002), the purported removal/impeachment of the Claimants from the office of Chairman and Vice Chairman of Etsako Central Local Government Council, Edo State by the 1st- 10th Defendants, purporting to act on behalf of the 11th Defendant, without movement of any Motion by the Legislative Council members, that the allegation (if any) be investigated; and without setting up a Seven-Man Panel composed of people of proven integrity, to investigate the allegation, (if any); if at all, is unconstitutional, illegal, null, void and of no effect whatsoever.
3. Whether, upon the proper, correct and dispassionate interpretation of the provisions of Section 19 (2) & (6) of the Edo State Local Government Law 2000, (as amended in 2002), the purported removal/impeachment of the Claimants from the office of Chairman and Vice Chairman of Etsako Central Local Government Council, Edo State by the 1st- 10th Defendants, purporting to act on behalf of the 11th Defendant', without causing a Notice of impeachment to be served on the Claimants and on each member of the 11th Defendant, within Seven (7) days of the 11th Defendant's receipt of the notice or at all, is unconstitutional, illegal, null and void and of no effect whatsoever.
4. Whether, within the meaning of Section 19 (1-9) of the Edo State Local Government Law 2000 (as amended in 2002); Section 36 (1) of the

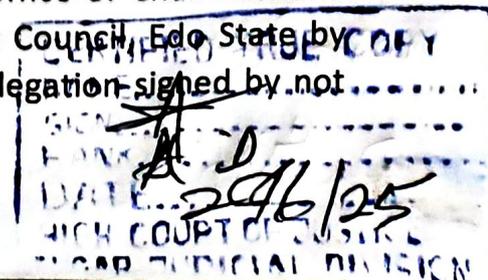


Constitution of the Federal Republic of Nigeria (CFRN), 1999 (as amended), the Claimants have been found guilty of any misconduct or, whether any allegation of misconduct has been proved against the Claimants to warrant their removal/impeachment from office as the Chairman and Vice Chairman of Etsako Central Local Government Council, Edo State by the 1st – 10th Defendants, purporting to act on behalf of Etsako Central Legislative Council.

5. Whether, within the meaning and intendment of the provisions of Section 7 of the Constitution of the Federal Republic of Nigeria (CFRN), 1999 (as amended) and Section 19 of the Edo State Local Government Law 2000 (as amended in 2002), the purported announcement/swearing-in of the 1st Defendant as the Acting Chairman of Etsako Central Local Government Council, Edo State is not wrongful, unconstitutional, illegal, null, void and of no effect whatsoever.
6. Whether, upon a proper, correct and dispassionate interpretation of Sections 1 (1), (2) &(3); 4 (7), 7 (1) & (4) and 36(1) of the Constitution of the Federal Republic of Nigeria (CFRN), 1999 (as altered) and section 8(2) of the Supreme Court Act, the purported removal/alleged impeachment of the Claimants who are the democratically elected Chairman and Vice Chairman of Etsako Central Local Government Council, Edo State by the 1st to 10th Defendants, without any Notice of allegation of gross misconduct served on the Claimants and without affording them fair hearing, is not a grave violation/breach of the provisions of Section 36(1) of the 1999 Constitution of the Federal Republic of Nigeria, (as altered) and non-compliance with the judgments of the Supreme Court in **SC/CV/343/202 between Attorney-General of the Federation V. Attorney General of Abia State & 35 Ors.**, delivered on 11th day of July 2024 and Section 19 of the Edo State Local Government Law 2000 (as amended in 2002) and thus amount to abuse of power, disobedience of Court Order and a gross misconduct on the part of the 1st– 10th Defendants and a violation of the Constitutional rights of the Claimants and unconstitutional, null, void and of no effect whatsoever.

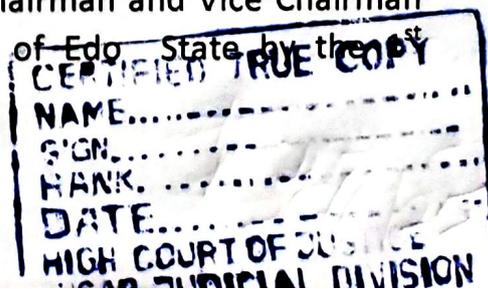
If the foregoing questions are answered in the affirmative, the Claimants sought the following reliefs:

1. A DECLARATION OF THIS HONOURABLE COURT that, the purported removal/impeachment of the Claimants from the office of Chairman and Vice Chairman of Etsako Central Local Government Council, Edo State by the 1st to 10th Defendants without Notice of any allegation signed by not



less than Two-Third of the membership of the Etsako Central Legislative Council, to the Leader of the Legislative Council, stating that the Claimants are guilty of gross misconduct (if at all) or at all, is unconstitutional, illegal, null, void and of no effect whatsoever.

2. A DECLARATION OF THIS HONOURABLE COURT that the purported removal/impeachment of the Claimants from the office of the Chairman and Vice Chairman of Etsako Central Local Government Council, Edo State by the 1st to 10th Defendants, purporting to act on behalf of the Etsako Central Legislative Council, without any motion by the Legislative Council that the allegation (if at all) be investigated, and without setting up seven man panel composed of people of proven integrity to investigate the purported allegation or at all, is unconstitutional, illegal, null and void and of no effect whatsoever.
3. A DECLARATION OF THIS HONOURABLE COURT that, the purported removal of the 1st and 2nd Claimants from the office of the Local Government Chairman and Vice Chairman of Etsako Central Local Government Council of Edo State by the 1st to 10th Defendants without causing a copy of the Notice of Impeachment (if any) to be served on the Claimants and on each member of the 11th Defendant within Seven (7) days of the 2nd (sic) 1st Defendant's receipt of the notice (if any), or at all, amounts to a contravention of the Constitution of the Federal Republic of Nigeria (CFRN), 1999 (as amended), and therefore ultra vires, unconstitutional, illegal, null, void and of no effect whatsoever.
4. A DECLARATION OF THIS HONOURABLE COURT that, within the meaning and/or intendment of the provision of Section 7 and Section 36(1) of the Constitution of the Federal Republic of Nigeria (CFRN) 1999 (as amended), read together with Section 19 of the Local Government Laws of Edo State 2000 (as amended in 2002), the Claimants have not been found guilty or wanting, of any gross misconduct for which they can be removed/impeached from the office of the Local Government Chairman and Vice Chairman of Etsako Central Local Government Council Edo State.
5. A DECLARATION OF THIS HONOURABLE COURT that, having regards to Section 7 and 36(1) of the 1999 Constitution of the Federal Republic of Nigeria (CFRN), 1999 (as Amended) and Section 19 of the Local Government Law of Edo State 2000 (as amended in 2002), the purported removal of the Claimants from office as the Chairman and Vice Chairman of Etsako Central Local Government Council of Edo State by the 1st



Defendant on the 6th day of January 2025 is unconstitutional, illegal, null, void and of no effect whatsoever.

6. A DECLARATION OF THIS HONOURABLE COURT that, the purported swearing-in of the 1st Defendant as the occupant of the Office of the Local Government Chairman of Etsako Central Local Government Council of Edo State (6th Defendant) is in contravention of Sections 7 and 36(1) of the 1999 Constitution of the Federal Republic of Nigeria (CFRN), 1999 (as amended) and Sections 10 and 19 (1-9) of the Local Government Law of Edo State 2000 (as amended in 2002) and therefore illegal, unconstitutional, null, void and of no effect whatsoever.
7. A DECLARATION OF THIS HONOURABLE COURT that the Claimants are still the occupants of the office of the Chairman and Vice Chairman of Etsako Central Local Government Council of Edo State (12th and 13th Defendants) and that the seats of the Chairman and Vice Chairman of Etsako Central Local Government Council of Edo State have not become vacant.
8. A DECLARATION OF THIS HONOURABLE COURT that, the refusal and/or failure of the 15th (*sic*) 14th Defendant's Officers to provide security and guarantee the security of the Claimants as occupants of the office of the Chairman and Vice Chairman of Etsako Central Local Government Council of Edo State is unlawful, null, void and unconstitutional.
9. AN ORDER OF THIS HONOURABLE COURT restoring or reinstating the Claimants to their offices as the Chairman and Vice Chairman of Etsako Central Local Government Council of Edo State, the 12th and 13th Defendants herein; together with the rights, privileges, paraphernalia and perquisites of the said offices.
10. AN ORDER OF THIS HONOURABLE COURT of perpetual injunction, restraining the Defendants either by themselves, their agents, privies, representatives or associates, persons acting for or through them and/or deriving authority from them from preventing the Claimants from performing the functions of the office of the Local Government Chairman and Vice Chairman of Etsako Central Local Government Council of Edo State.
11. AN ORDER OF THIS HONOURABLE COURT mandating, directing and/or compelling the 14th Defendant to provide protection to the Claimants for the peaceful resumption and discharge of their duties and functions as bestowed in their offices.

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And for such further or other Order or Orders as this Honourable Court may deem fit to make in the circumstances of this case.

The 1st to 13th Defendants filed a Motion for Preliminary Objection challenging the jurisdiction of this Court and Claimants also filed their Counter Affidavit to same.

On the 19th of June, 2025, this Honourable Court ordered that both the Preliminary Objection of the 1st to 13th Defendants/Applicants and arguments in the substantive suit will be heard at the same time. The Court fixed 25th of June, 2025 as date of hearing in the presence of Claimants' Counsel and Counsel to the 1st to 13th Defendants.

When the case came up for hearing on the 25th day of June, 2025, Counsel to the 1st to 13th Defendants was absent. The Court found no merit in his letter of adjournment and more also, all the written addresses of the respective counsel including Evans Ogbeifun Esq of counsel to the 1st to 13th Defendants had been filed and the stage was set for adoption of the addresses of Counsel.

The Court invoked the provisions of **Order 31 Rules 1 and 4(2) of the High Court Civil Procedure Rules of Edo State 2018** and therefore deemed as argued, the Defendants' Preliminary Objection filed on 4th June, 2025 and Reply on Point of Law filed on 24th June, 2025 as well as Counsel's address in the substantive suit.

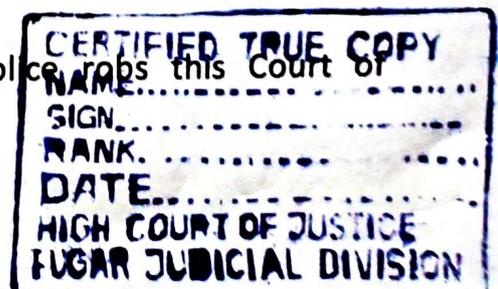
RULING ON THE PRELIMINARY OBJECTION FILED BY THE 1ST TO 13TH DEFENDANTS.

By a Motion on Notice dated 3/6/2025, but filed on 4/6/2025, The Defendants/Applicants, whom I shall henceforth refer to as "the Applicants" for ease of reference, prayed this Court to strike out this Suit summarily for lack of jurisdiction to determine this Suit as constituted and that same should be dismissed/struck out.

The application is brought pursuant to Order 5 Rule 3(2), Order 15 Rule (16) and Order 22 Rule 4 of the Edo State High Court Civil Procedure Rules (2012) and Under the Inherent Jurisdiction of this Court

The grounds for the objection are as follows:

1. The proper parties are not before the Court;
2. The wrong procedure was employed;
3. The presence of the Inspector General of Police stops this Court of jurisdiction;



4. Subsection 10 of Section 19 of the Edo State Local Government Law 2000 as amended in 2002 expressly prohibits this Honourable Court from hearing and/or determining matters related to impeachment of Local Government Chairmen and Vice Chairmen in Edo State.

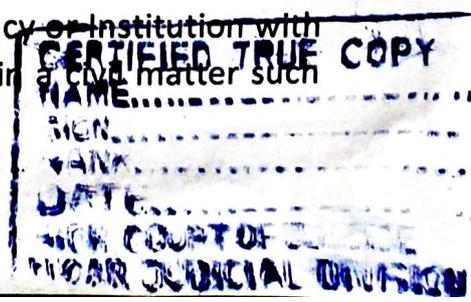
The application is supported by a 10-paragraph Affidavit deposed to by the 1st Applicants, along with a Written Address. In the said Written Address, Evans Ogeifun Esq., of Counsel for the Applicants raised a sole issue for determination thus: ***“Whether or not this application has merit”***

Learned Counsel submitted that the Claimants made an elementary error initiating a suit despite being quite aware that the Defendants will respond copiously to any false allegations against them, chose to initiate this by Originating Summons contrary to Order 3 Rule 1 (2) of the Rules of this Honourable Court that, contentions matters as well as Claims for Declaration be initiated by Writ of Summons. He cited for authority, **MADUKOLUM V. NKEMDILIM (1962) ALL NLR (PART 2) 581 AT 589, AND OBARO V. HASSAN (2013) 8 NWLR (PART 1375) AT PAGE 425.**

He submitted that only natural and juristic persons, in whom rights and obligations are vested, are capable of being proper parties to law suits before Courts of Law, adding that such parties must be sued in their proper names. He argued that when proper parties are not before a Court, the implication is that its jurisdiction is limited as it cannot give Judgment for or against a person who is not a party to the action. He stressed that a Court's jurisdiction is limited to the parties, as well as the issues raised and reliefs sought before it. He called to aid, the cases of **HUEBNER V. AERONAUTICAL INDUSTRIAL ENGINEERING AND PROJECT MANAGEMENT CO. LTD. (2017) 14 NWLR PART 1586 PAGE 397; OYEWEMI V. OWOEYE (2017) 12 NWLR PART 1580 PAGE 364; REGISTERED TRUSTEES OF THE AIRLINE OPERATORS OF NIGERIA V. NIGERIA AIRSPACE MANAGEMENT AGENCY (2014) 8 NWLR PART 1408 PAGE 1.**

He further argued that the Claimants made copious allegations against persons not party to the Suit, while submitting that the Claimants have not brought all the parties necessary to the just determination of the Suit.

Learned Counsel further argued that the joinder of the 15th (*sic*) 14th Defendant robs this Court of jurisdiction. He argued that by the provision of Section 251 (p), (q) & (r) of the Constitution of the Federal Republic of Nigeria (CFRN) 1999 (as amended), it is the Federal High Court that is vested with the jurisdiction to entertain any matter affecting a Federal Agency or Institution with regards to its management and administration when sued in a civil matter such



is this. He also argued that the Claimants are seeking to move the executive power of the 15th (sic) 14th Defendant to provide them with Policemen for security, which is totally different from if the complaint was, for instance, how the 14th Defendant had caused them harm or deprived them of their constitutional rights.

Learned Counsel argued that Local Governments are creations of the Constitution which also gives the State House of Assembly powers to enact Laws for the good governance of the State. In exercise of such powers, the Edo State House of Assembly in 2000, enacted a Local Government Law which it amended in 2002, to regulate the conduct of Local Government Council affairs. He argued that it is under Section 19 of this Law that the 1st to 9th Defendants acted under their legal authority and Subsection 10 of the said section expressly prohibits this Honourable Court or any other Court for that matter from looking into the acts of the 1st to 9th Defendants.

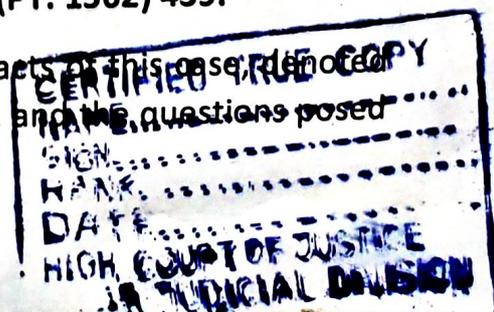
He submitted that the Court does not have jurisdiction to entertain this matter as Local Governments have autonomy to direct their own affairs.

He urged the Court to so hold.

The Respondents on their part, filed a Counter-Affidavit of 9 paragraphs deposed to by Oshomah Murtala Umoru, and a Written Address. In the said Written Address, Anderson Asemota Esq., of Counsel for Claimants/Respondents submitted a sole issue for determination, to wit: ***“Whether this Honourable Court is inundated with jurisdiction to hear and determine this suit, taking into consideration the grounds set out in the preliminary objection”***

Arguing his issue, Learned Counsel submitted that the Claimants’ claim in this Suit is that the procedures laid down by the Edo State Local Government Law, 2000 (as amended in 2002) for the removal of democratically elected Chairman and Vice Chairman of the Etsako Central Local Government was not complied with in the purported impeachment carried out against the Claimants by the 1st - 13th Defendants hence, the Claimants approached this Honourable Court vide the Originating Summons procedure, to consider and interpret the provisions of Section 19 (1-9) of the Edo State Local Government Law, and ascertain or determine whether the said procedures were complied with. He submitted that the Claimants case falls squarely within the ambit of Suits qualified to be commenced and determined by the originating summons procedure. He cited **IKPEAZU V. OGAH (2017) 6 NWLR (PT. 1562) 439.**

Furthermore, Counsel submitted that from the facts of this case, denoted by the Affidavit in support of the Originating Summons, and the questions posed



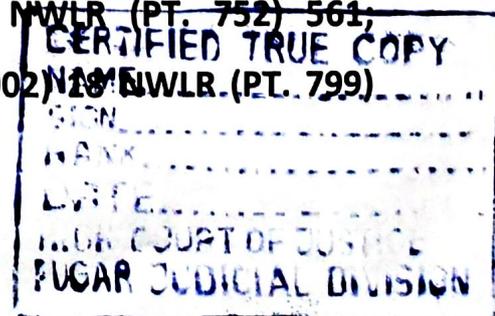
determination and the reliefs sought therein, the parties before the Court are the principal actors directly affected by the dispute presented for adjudication and with their presence, this Suit can be effectively and competently determined. He argued that a Claimant cannot be compelled to sue a party against whom they have no grievance directly. He cited **GREEN V. GREEN (1986) LPELR-1338(SC), OKESADE V. OGUNKAYODE (1994) 1 NWLR (PT. 318) 36-37.** Learned Counsel further submitted that a Defendant who feels the Suit will not be complete without the joinder of some other parties is at liberty to apply to join the said party. He cited **C.R.S.N CORP V. ONI (1995)1NWLR (PT.318)270 SC.** Also, he argued that a Suit cannot be defeated by reason of mis-joinder or non-joinder of parties. He cited **Order 13, Rule 18 of the Edo State High Court Civil Procedure Rules, 2018.**

On the joinder of a Federal Agency, he submitted that the Court must mandatorily refer to the basis of the dispute between the parties and the cause of action, to assume jurisdiction where a Federal Government Agency is a party to the Suit. He argued that the presence of a Federal Government Agency cannot rob this Honourable Court of Jurisdiction, as the subject matter (interpretation of Edo State Local Government Laws) falls within the jurisdiction of this Court. He cited **NWANZE V. NRC (2022) 18 NWLR (PT. 1862) 265 and RAHMAN BROTHERS LTD V. N.P.A (2019) 6 NWLR (PT. 1667) 126.**

On whether the jurisdiction of this Court has been ousted, he submitted that the complaint of the Claimants is the non-compliance with the procedures listed in Section 19(1-9) of the Local Government Laws of Edo State 2000, and thus this Court is vested with jurisdiction to hear this Suit.

He urged this Court to dismiss the preliminary objection for lacking in merit.

The Defendants/Applicants filed a reply on point of law on 23rd June, 2025. In the said reply, learned counsel submitted that the case of the Claimants is that they were improperly removed from office; while the case of the Defendants is that the Claimants were legally removed from office. He submitted that these facts cannot be resolved through affidavit evidence without the calling oral evidence through witness(es). He submitted that the court ought to order the parties to file pleadings. He cited **WAKAH V OSSAI (2002) 2 NWLR (PT. 752) 561; KENYAMO V. HOUSE OF ASSEMBLY, LAGOS STATE (2002) 18 NWLR (PT. 799)**



OGUEBEGO V. PDP (2016) 4 NWLR (PT. 1503) 446 AND JEV V. IYORTYOM (2014) 14 NWLR (PT. 1428) 575.

Learned counsel further submitted that the burden of proving that the impeachment was irregular rest on the Claimants and that the Defendants have no burden of proving any of the assertion. He contended that Claimants must succeed on the strength of their own case and not on the weakness of the defence. He relied on the cases of **ACTION CONGRESS OF NIGERIA V. NYAKO (2015) 18 NWLR (PT 1491) 351, HEALTH PRODUCT (NIG) LTD V. BAZZA (2004) 3 NWLR (PT 861) 582 AND ATUNWA V. LADENIKA (1998) 7 NWLR (PT. 557) 221.**

On the issue on jurisdiction, learned counsel submitted that the courts regularly enforce legislations which preclude the courts from looking into the decision of various bodies and organisations. He cited the cases of **FAWEHINMI V. ABACHA (2000) 4 NWLR (PT.654) 416; STATE V. AHAJI AKINPELU (2000) 12 NWLR (PT. 682) 685, NIGERIA ARMY V EGBUOMA (2000) 2 NWLR (PT. 646) 542.** He further submitted that the guiding principle to determine where the court will enforce a clause ousting its jurisdiction include, clear and unambiguous language, constitutional validity, legislative intent, ultra vires or bad faith, dispute as to interpretation, compliance with natural justice and a breach of fundamental human rights. He called to aid the cases of **ADESANYA V. PRESIDENT FEDERAL REPUBLIC OF NIGERIA (1981) 2 NCLR 356; UWAIFO V. A.G BENDEL STATE (1982) 7 SC 124; STATE V. AKINPELU (SUPRA), UKALA V. SHINKAFI (2000) 6 NWLR (660) 382.**

He urged this court to uphold the Preliminary Objection and dismiss the action of the Claimants.

I have perused the Affidavit and Counter Affidavit and submissions of both Counsel in respect of the Preliminary Objection of the Defendants/Applicants.

In **OKONKWO v. NGIGE & ORS (2007) LPELR-2485(SC)** the Supreme Court defined "*jurisdiction*" as follows:

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Jurisdiction of a court has been judicially defined as a very fundamental and priceless "commodity" in the judicial process. It is the fulcrum, centre piece, or the main pillar upon which the validity of any decision of any court stands and around which other issues relate. It cannot be assumed or implied, it cannot also be conferred by consent or acquiescence of parties. HALSBURY'S LAWS OF ENGLAND, 4TH EDITION, VOL.1, PARA. 715, P. 323. See also, the case of SHELL PETROLEUM DEVELOPMENT CO. NIGERIA LTD. V. ISAIHAH (2001) 1 SC (PT. 11) 1, (2001) 11 NWLR (PT. 723) 168; ATTORNEY GENERAL OF THE FEDERATION V. SODE (1990) 1 NWLR (PT. 128) 500 AT 541 AND OKOLO V. UNION BANK (NIG.) PLC (2004) FSC (PT. 1) 1, (2004) 3 NWLR (PT. 859) 87."

The approved practice is that when issue of jurisdiction is raised, the Court must carefully peruse the claim in order to properly lay it to rest. This is very important, because it is well settled law, that where the Court lacks jurisdiction to adjudicate on a cause or matter, everything done in such want of jurisdiction, is a nullity. See A.-G., ABIA STATE V. A.-G., FED. (2025) 5 NWLR (PT. 1984) 285; SOPETRO MARINE LTD. V. N.O. & G.S. LTD. (2025) 7 NWLR (PT. 1988) 75; ONOITA V. TEXACO (NIG.) PLC (2024) 18 NWLR (PT. 1969) 171; MUSTAPHA V. GOVERNOR OF LAGOS STATE (1987) NWLR (PT 58).

The first ground of the Applicants objection is that the proper parties are not before this Court. He argued that the Claimants in the Suit made allegations against the State House of Assembly and the State Executive. On that premise, he further argued that the Claimants ought to join in the action, the State House of Assembly and the State Executive.

The question of who is a necessary party to a Suit has been settled in the celebrated case of GREEN V. GREEN (1987) LPELR-1338(SC); ALSO REPORTED IN (1987) 3 NWLR (PT. 61) 480, where His Lordship Oputa, JSC distinguished between proper, desirable and necessary parties. At pages 16 - 17, paras. F - E, Oputa, JSC eruditely espoused as follows:

"This now leads on to the consideration of the difference between 'proper parties', 'desirable parties' and 'necessary parties'. Proper parties are those who, though not interested in the plaintiffs claim, are made parties for some good reasons e.g. where an action is brought to rescind a contract, any person is a proper party to it who was active or concurring in the matters which gave the plaintiff the right to rescind. Desirable parties are those who have an interest or who maybe affected by the result. Necessary parties are those who are not only interested in the subject-matter of the proceedings but also who in their absence, the proceedings could not be fairly dealt with. In other words, the question to be settled in the action between the existing parties must be a

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...tion which cannot be properly settled unless they are parties to the action
stituted by the plaintiff."

See also **AGUNSOYE V. AROJOJOYE & ORS (2023) LPELR-60393 (SC); PEENOK INVESTMENTS LTD V. HOTEL PRESIDENTIAL LTD. (1982) LPELR -2908 (SC) AT 39 - 40.**

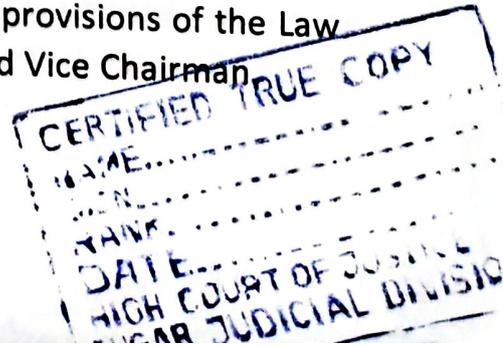
Therefore, whether or not a party should be joined in a Suit is dependent on whether his participation in the Suit is necessary or whether it is merely desirable. A party will only be joined in a Suit where his participation in same is necessary in order to fairly and effectually determine the Suit. This is more so because, the law is trite that a Claimant is entitled to bring an action against whoever he wishes and where he has no relief or grievance against a person, he cannot be compelled to maintain an action against that person. **ARIBISALA V. AMCON (NO.2) (2025) 8 NWLR (PT. 1991) 41.**

Combing through the reliefs sought by the Claimants/Respondents in the matter, there is no reason for them to join the State House of Assembly and the State Executive. None of reliefs sought by the Claimants has anything to do with them. Both the Claimants and the Defendants did not exhibit any resolution of the Edo State House of Assembly giving effect to the impeachment resolution of the 1st to the 11th Defendants that would warrant the joinder of the House of Assembly to this suit.

The mere facts that they were referred to in the supporting Affidavit to the originating summons does not make their presence indispensable in the determination of this matter, after all, it is the claim of the Plaintiff that determines whether there are proper parties before the court. In the case of **AG FEDERATION VS. AG. ABIA STATE (2001) LPELR 631(SC)** where Per **KARIBI – WHYTE, JSC (P. 101, paras. E-F)** held as follows;

"it is now fairly settled law that it is the cause of action as endorsed on the Writ of Summons that determines the proper parties before the Court.

The claim of the Claimants is that they were wrongly impeached by the 1st - 13th Defendants/Applicants, who failed to comply with the provisions of the Law on the impeachment of the Local Government Chairman and Vice Chairman.



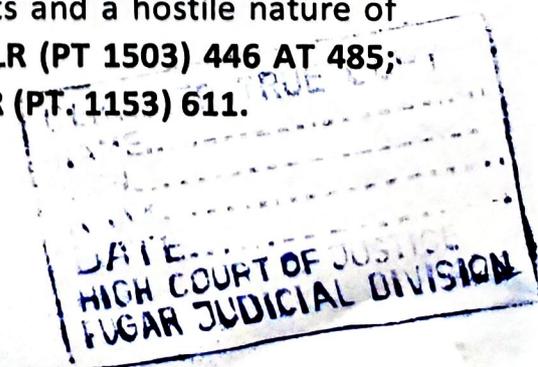
This allegation of infraction on the law is against the 1st to 13th Defendants and the reliefs sought on the face of the Originating Summons are also against the said Defendants.

The action is properly constituted with regards to the necessary parties that ought to be sued who are already Defendants in this Suit

I so hold.

In addition, the Law is settled that no proceeding shall be defeated by reason of mis-joinder or non-joinder of parties, and a Judge may deal with the matter in controversy so far as regards the rights and interest of the parties actually before him. Particularly because the parties allegedly not joined are not necessary parties in this action. See **ORDER 13, RULE 18 OF THE EDO STATE HIGH COURT CIVIL PROCEDURE RULES (2018); ARIBISALA V. AMCON (SUPRA); BELLO V. I.N.E.C. (2010)8 NWLR (PT. 1196) 342.**

The Applicants have also argued that in this Suit, facts are in contentious and there will be need to call oral evidence. Thus, the Originating Summons procedure is not appropriate to commence this action. The appropriate mode of commencement should have been a Writ of Summons. Now Order 3 of the Edo State High Court Civil Procedure Rules prescribes the mode of commencement of action before this Court. The Originating Summons procedure is recognised as one of the modes of commencement. It is settled law that the Originating Summons procedure is used to determine questions of construction arising under a Deed, Will or other written instruments or for the interpretation of statutes. It is often used where the facts are not in dispute or where it is unlikely that the facts would be in dispute. In these cases, the nature of the evidence(s) is documentary and there is unlikely to be any dispute as to their existence. It is an expedient mode of hearing where Claimant merely seeks a declaration of his rights. **SEE FAMFA OIL LTD V A. G., FEDERATION (2003)12 NWLR (PT 852) 453, INAKOJU V ADELEKE (2007) 4 NWLR (PT. 1025) 423.** A case is not deemed contentious because one of the parties alleges same. The filing of a Counter-Affidavit to oppose claims in an Originating Summons does not of itself make such proceedings contentious or result in disputed facts. In determining whether the facts in support of an originating summons are contentious, it is the nature of the claim and the facts deposed to in the Affidavit in Support of the claims that will be examined to see if they disclose dispute of facts and a hostile nature of the proceedings. See **OGUEGEGO V PDP (2016) 4 NWLR (PT 1503) 446 AT 485; P.& C.H.S.C. LTD. V. MIGFO (NIG.) LTD. (2009) 11 NWLR (PT. 1153) 611.**

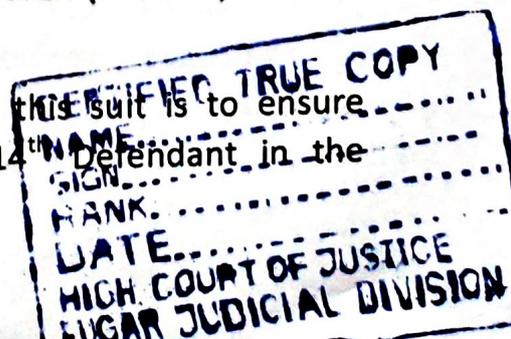


A painstaking perusal of Respondents' claims and reliefs in their Originating Summons, it is evident that the Respondents are praying this court to construe the provisions of **Section 19 (1)-(9) of the Edo State Local Government Law** and determine whether their purported impeachment was in accordance with the said law. Based on the above premise, it can be deduced that the main issue in this Suit relates to the construction and the interpretation of the statutory provisions of the Edo State Local Government Law. Where the issue is that of construction of documents or interpretation of statutory provisions, it is safe and prudent to approach the Court by Originating Summons. It is my view that this Suit was properly commenced by the Originating Summons procedure.

The third ground of the objection of the Applicants is that the presence of the Inspector General of Police robs this Court of jurisdiction. I find this contention rather pedestrian because, as stated at the start of this judgment, the issue of jurisdiction is usually gleaned and deciphered from the processes filed by the Claimant. When an issue of jurisdiction is raised, the Court must carefully peruse the claim of the Claimant in order to determine it. **N.P.A. V. AMINU IBRAHIM & CO. (2018) 12NWLR (PT.1632) 62.** The jurisdiction of the Court is statutorily provided for. There is no doubt that the 14th Defendant is an Agency of the Federal Government and is ordinarily subject to the jurisdiction of the Federal High Court only if there is a claim against it that involves its administration or management. For the Federal High Court to be seised of jurisdiction, the claim of the party and the reliefs must be within **Section 251(1) of the Constitution of the Federal Republic of Nigeria, 1999 (as amended).** Furthermore, where an Agency of the Federal Government is a party, the principal reliefs must be directed against the Federal Government or any of its Agencies before a Federal High Court can have jurisdiction. See Section 251(1) (p), (q) and (r). This is not the case in this Suit, looking at the main claim of the claimants; it is one quarrelling over their purported impeachment. That is the main claim - the subject of this action - which does not fall within the jurisdiction of the Federal High Court.

See **RAHMAN BROTHERS LTD. V. N.P.A. (2019) 6 NWLR (PT. 1667) 126; ONUORAH V. K.R.P.C. LTD. (2005) 6 NWLR (PT. 921) 393; ANAZODO V. PAZMECK INTERTRADE (NIG.) LTD. (2023) 10 NWLR (PT. 1891) 1; P.T.F. V. FIDELITY BANK PLC (2022) 9 NWLR (PT. 1836) 475; KAKIH V. P.D.P. (2014) 15 NWLR (PT.1430) 374; N.E.P.A. V. EDEGBERO (2002) 18 NWLR (PT. 798) 79 AND BAKARI V. OGUNDIPE (2021) 5 NWLR (PT. 1768) 1.**

The essence of joinder of the 14th Defendant in this suit is to ensure protection of the Claimants by the officers of the 14th Defendant in the



performance of their constitutional duties and to guarantee that the orders to be made in this judgment are binding on the officers of the 14th Defendant. This does not in any way rob this Court of jurisdiction.

As a matter of fact, all courts in Nigeria including District and Customary Courts possess the powers to direct the Nigeria Police to carry out its order notwithstanding that the police is an Agency of the Federal Government and a suit does not become incompetent simply because the Police is made a party in order to be bound by the orders of the Court. And I so hold.

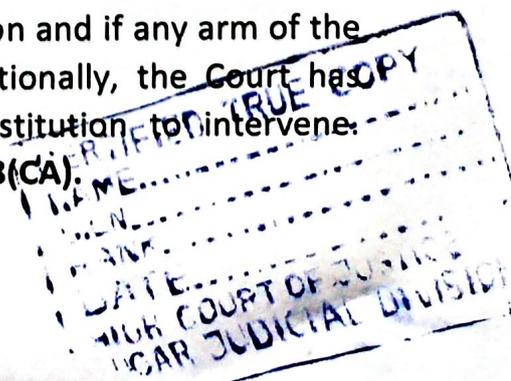
Lastly, the Applicants contended that this Court is deprived of jurisdiction because Subsection 10 of Section 19 of the Edo State Local Government Law 2000 (as amended) in 2002, expressly prohibits this Honourable Court from hearing and/or determining matters related to impeachment of Local Government Chairmen and Vice Chairmen in Edo State. The fact of the case that led the Respondents to file this action is that their purported impeachment was neither preceded by the service of a notice on them, nor any investigation into the allegation levelled against them by a Panel as envisaged under the Law, and thus was illegal. In this case, the Respondents have been impeached and it is their claim that the impeachment had not been carried out in the manner provided for under Section 19 (1-9) of the Local Government law Edo State.

Now Section 19(10) of the Edo State Local Government law provides as follows:

“No proceedings or determination of the panel or of the House of Assembly or any matter relating to such proceedings or determination shall be entertained or questioned in any court”

Issues of impeachment are matters within the competence of the Legislature. An impeachment procedure is universally recognized as pre-eminently a political matter which is an affair of the Legislature; however the Court will not close its eyes to serious injustice relating to the manner an impeachment procedure is being carried out. A party who feels aggrieved with the way and manner an impeachment procedure was conducted can approach the Court to seek redress, after all it is within the province of the Court to ensure strict adherence to the spirit of a statute for the endurance of a democratic regime. A Court of law cannot close its eyes to the infringement of the Constitution. It is the primary custodian of the Constitution and if any arm of the government, including the Court itself, acts unconstitutionally, the Court has inherent power under Section 6(6) of the 1999 Constitution to intervene.

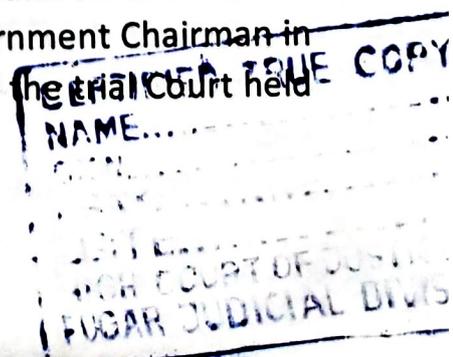
ABIODUN V. C.J. KWARA STATE & ORS (2007) LPELR-8308(CA).



Where a statute provides for pre-condition to the attainment of a particular situation, the pre-condition must be fulfilled or satisfied before the particular situation will be said to have been attained or reached. See **ADELEKE V. OYO STATE HOUSE OF ASSEMBLY (2006) 16 NWLR (PT. 1006) 608; INAKOJU V. ADELEKE (2007) 4 NWLR (PT. 1025) 423; EKPO V. CALABAR LOCAL GOVERNMENT COUNCIL (1993) 3 NWLR (PT. 281) 324; AND JIMOH V. OLAWOYE (2003) 10 NWLR (PT. 828) 307.**

It is not in doubt that Sub-Section 10 of Section 19 ousts the jurisdiction of this Court and it is the Law that, in interpreting such a sub-section, the whole section must be taken into account so as to assist in understanding the circumstances in which the ouster comes into play for it is believed that the jurisdiction of the Court is not meant to be ousted in any event simply because the provision of the statute says so. It has been held that for the sub-section to enjoy the protection envisaged, the implementation of the other provisions of the section must be in accordance with the section and must not suffer a fundamental vice. See **EKPO V. CALABAR LOCAL GOVERNMENT COUNCIL (SUPRA)**. The above position of the Law advances the principle of Law to the effect that in interpreting a section of a statute having sub-sections, the whole sections must be read as a whole since it is usual for a sub-section to have a connecting relationship with other sub-sections. It follows therefore, that if the material aspects of the conditions prescribed in sub-sections (1) to (9) of section 19 are not complied with, sub-section (10) which deals with ouster of jurisdiction, cannot have that effect without rendering the entire section 19 self-defeating or the procedure laid down in sub-sections (1) to (9) very irrelevant. See **EKPO V. CALABAR LOCAL GOVERNMENT AT PAGES 337-338**. In addition, it is a well settled principle of interpretation of statutes that where a statute as in this case, seeks to deprive the Court of the power to exercise its jurisdiction in a matter, such statute must be strictly and scrupulously construed. That to give effect to such a clause, it must be clear from the facts and circumstances of the particular case that an interpretation taking away the jurisdiction of the Court is justified and its provisions complied with. See **MILITARY GOV. ONDO V. ADEWUNMI (1988) 3 NWLR (PT. 82) 280**

In **AKINMADE & ORS V. AJAYI (2008) LPELR-8565(CA)** a case which is on all fours with this present case, the question came up as whether the trial Court was right to overrule the preliminary objection challenging its jurisdiction to entertain an action that bothered on the impeachment of a Local Government Chairman in Ogun State. The Court of Appeal while affirming the Ruling of the trial Court held per Kumai Bayang Aka'ahs, J.C.A (later JSC) stated that:



“The respondent complained that no notice of impeachment was served on him nor was any panel set up to investigate any allegation made against him before his purported impeachment. Since the Appellants did not file a counter-affidavit denying these averments, the appellants did not comply with Section 37(1)-(9). Moreover there is no Subsection in S.37 of the Local Government Law of Ogun State that equates with S.188 (10) of the Constitution to preclude the High Court from entertaining the case. The cases of EKPO v. CALABAR LOCAL GOVERNMENT COUNCIL; EKEKUGBO v. FIBERESIMA and JIMOH v. OLAWOYE supra which decided that the respondents must show that they complied with the procedure laid down for the removal of the Chairman or Vice Chairman before the impeachment is allowed to stand is good law. The learned trial Judge was therefore right in overruling the Preliminary Objection.”

In **DANLADI V DANGIRI (2015) 2 NWLR (PT. 1442) 124**; speaking on the serious nature of impeachment, Ngwuta, J.S.C. at page 168-164, paras. H-B; stated that:

“Impeachment of elected politicians is a very serious matter and should not be conducted as a matter of course. The purpose is to set aside the will of the electorate as expressed at the polls. It has implication for the impeached as well as the electorate who bestowed the mandate on him. Whether it takes one day or the three months prescribed by law, the rules of due process must be strictly followed. If the matter is left at the whims and caprices of politicians and their panels, a State or even the entire country could be reduced to the status of a banana republic. The procedure for impeachment and removal must be guarded jealously by the courts”

It is evident that, the fulcrum of the Respondents’ claim is that, due procedure was not followed in their removal as Chairman and Vice Chairman of Etsako Central Local Government. Since the action of the Respondents raises question about a breach of the laid down statutory procedure for impeachment of a local government chairman, I hold that this Court is seised of the vires to entertain the matter.

What is more, on the 13th of March, 2025, in Suit No B/25OS/25 between same parties in this suit, this Honourable Court though struck out the claim of the Claimants on grounds of non service of pre action notice on the Local Government Council in a considered ruling but resolved this issue of ouster.

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use in the Local Government law in favour of the Claimants and against the Defendants.

Since the issue of ouster clause of the Court in the Local Government Law has been previously decided in favour of the Claimants by this Honourable Court, the Defendants are estopped from raising same in this proceeding under the doctrine of issue estoppel. And I so hold

See the following cases;

LADEGHA VS DUROSIMI (1978) SC 82;

BAMISEBI VS FALEYE (1987) 2 NWLR PART 54, 57

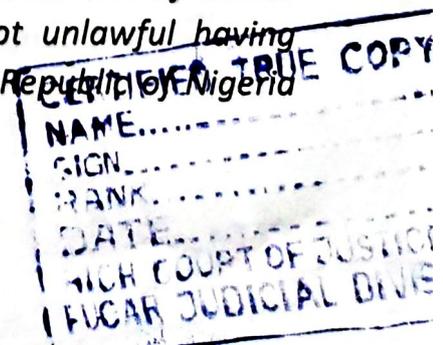
Accordingly, I find no merit in this preliminary objection of the Applicants and it is hereby overruled and accordingly dismissed.

JUDGMENT IN THE SUBSTANTIVE SUIT

The Originating Summons of the Claimants is supported by a 34-paragraph Affidavit, deposed to by the 1st Claimant, with 6 documents attached as Exhibits. It is also accompanied with a Written Address, settled by Anderson Asemota Esq. of Counsel for the Claimants.

Learned Counsel raised and argued Four (4) issues for determination before this Court. They are:

- 1. Whether the purported impeachment of the Claimants from office as the Chairman and Vice Chairman of Etsako Central Local Government Council of Edo State by the 1st to 10th Defendants on the 6th of January, 2025 was in accordance with the provisions of section 19 of the Local Government Laws of Edo State, 2000 (as amended in 2002).*
- 2. Whether the 1st to 10th Defendants can exercise the power to remove/impeach the Claimants who were democratically elected and had secured a tenure of Three (3) years from the 4th day of September, 2023 when they were sworn into office, in accordance with the provisions of the Constitution of the Federal Republic of Nigeria (CFRN), 1999 (as altered) to 4th September, 2026 without fair hearing.*
- 3. Whether the 1st Defendant's swearing-in as the Acting Chairman of Etsako Central Local Government Council of Edo State is not unlawful having regard to Section 7 of the Constitution of the Federal Republic of Nigeria*



(CFRN), 1999 (as amended) and the fact that the offices have not become vacant.

Arguing his issues together, Learned Counsel submitted that for a Local Government Chairman/Vice Chairman to be removed from office, the procedure set out in the Law that regulates such removal must be strictly complied with; that where such is not followed, the Court can intervene to nullify the purported removal. He argued that where the Claimants were illegally and arbitrarily removed from office without due process of Law and without according them fair hearing, such removal is void. He submitted that where the words of a statute are clear and unambiguous, they must be given their ordinary meaning. He cited by way of authorities, **I.S.I.E.C. V. EHIRIM (2013) 3 NWLR (PT. 1340) 169 at PAGES 172 to 174; TEXA CO PANAMA INC. V. SHELL P.D.C.N. LTD. (2002) 5 NWLR (PT.859) 209; ADEJUMO V. MIL. GOV., LAGOS STATE (1972) 3 S.C. 46; OWENA BANK (SIG.) PLC. V. NSE LTD. (1997) 8 NWLR (PT. 515) 1; EKEKEUGBO V. FIBERESIMA (1994) 3 NWLR (PT. 335) 707.**

Counsel argued that the Local Government Chairman and the Vice Chairman are not under the whims and caprices of any organ of Government or individual, being duly elected Officers of the Local Government, by the Voters of that Local Government; therefore, they cannot be removed by any arbitrary method save the method stipulated by Law. He calls to aid the case of **ORHIONMWON LOCAL GOVT. V. OGIEVA 1993 4 NWLR PT. 288 469 AT PAGES 473-474.**

Learned Counsel argued that the 1st to 10th Defendants did not follow the method allowed by Law when they purportedly removed/impeached the Claimants from office who are the duly elected Local Government Chairman and Vice Chairman of Etsako Central Local Government Council of Edo State and the Chief Executives of the Council elected by the people of the Council to serve them for a term of Three (3) years, yet to expire. He argued that the seats of the Claimants have not become vacant and that the procedure adopted by the 1st to 10th Defendants and the impostors in removing/Impeaching the Claimants without affording them fair hearing guaranteed by Section 36 (1) of the Constitution of the Federal Republic of Nigeria (CFRN), 1999 (as amended) is wrongful, unconstitutional, unlawful, illegal, null, void and of no effect. He prayed the Court to vacate the illegal removal/impeachment of the Claimants from their offices and restore them to their office with all their rights, entitlements and privileges forthwith and restrained the Defendants whether by themselves, or acting through agents or in concert with other elements, from further doing any act or acts to undermine the performance of the functions and

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ties of the office of the Claimants. He cited **AKINMADE V. AJAYI (2008) 12 NWLR (PT. 1101) 498.**

Learned Counsel submitted that, where the Constitution or a Law provided a pre-condition before a particular act is to be done, non-fulfilment of the said pre-condition will be prejudicial to the party in default. He relied on **EKPO V. CALABAR LOCAL GOVERNMENT COUNCIL (1993) 3 NWLR PT. 281 324; JIMOH V. OLAWOYE (2003) 10 NWLR (PT. 828) 307; ADELEKE V. OYO STATE HOUSE OF ASSEMBLY (2006) 16 NWLR (PT. 1006) ABARIBE V. ABIA STATE HOUSE OF ASSEMBLY (2002) 13 NWLR (PT. 788) 466 AND AINA V. JINADU (1992) 4 NWLR(PT. 233) 91.**

Lastly, Learned Counsel argued that the Claimants were not given fair hearing before the decision to purportedly remove/impeach them was taken/reached by the 1st to 10th Defendants. He argued that the absence of fair hearing renders the process void. He cited **KOTOYE V. CBN (1989) 1 NWLR (PT. 98) 419 @ 488.**

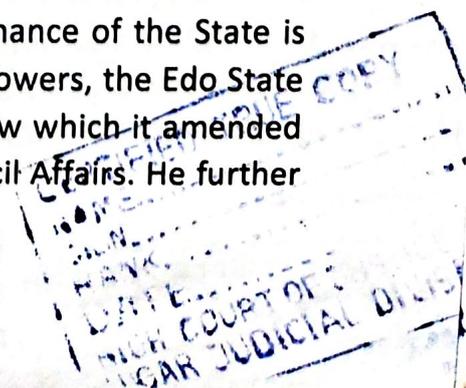
He urged this Court to resolve this issue in favour of the Claimants and grant the reliefs sought as contained in the Originating Summons.

On their part, the 1st to 13th Defendants filed a Counter-Affidavit of 13 paragraphs dated 2/6/2025 and filed 4/6/2025. It is accompanied with a Written Address settled by Evans Ogbeifun Esq of Counsel for the 1st– 13th Respondents.

In the said Written Address, Learned Counsel raised a sole issue for determination to wit: ***“Whether or not this Suit has merit”***.

Arguing his issue, Learned Counsel submitted that, the Claimants made an elementary error by initiating this Suit through an Originating Summons, contrary to Order 3, Rule 1 (2) of the Rules of this Honourable Court, that contentious matters and Claims for Declaration be instituted by Writ of Summons. He submitted that the Claimants seeking several declarations of the Court are aware that the Defendants will respond copiously to any false allegations made against them, they ought not to institute the Suit by Originating Summons. He cited the case of **MADUKOLUM V. NKEMDILIM (1962) ALL NLR (PART 2) 581 at 589**, and submitted that in order to activate the jurisdiction of the Court over a claim, there must be a competent originating process before the Court.

He further submitted that Local Governments are creations of the Constitution; the powers to enact Laws for the good governance of the State is vested in the State House of Assembly. In exercise of such powers, the Edo State House of Assembly in 2000, enacted a Local Government Law which it amended in 2002, to regulate the conduct of Local Government Council Affairs. He further



submitted that the 1st to 9th Defendants acted under their legal authority of Section 19 of the Law and that Subsection 10 of the said Section expressly prohibits this Honourable Court or any other Court for that matter, from looking into the acts of the 1st to 9th Defendants.

In the light of the foregoing, he submitted that this Court does not have jurisdiction to entertain this matter as Local Governments have autonomy to direct their own affairs. He urged this Court to dismiss the claim of the claimants, as they have not remedy in law.

The Claimants filed a further-Affidavit of 7 paragraphs and a Reply on points of law.

In his reply, Learned Counsel, Anderson Asemota Esq., submitted that the 1st– 13th Defendants abandoned the questions/issues for determination, together with the relevant constitutional and statutory provisions submitted therein for construction and interpretation and proceeded to address arguments at large on an entirely different issue, *id est*, jurisdictional issues which they have already canvassed in their preliminary objection, which they formulated for themselves outside the questions in the Originating Summons and without proffering any answer as to the proper interpretation of the provisions submitted for interpretation in the Originating Summons. He contended that this is wrongful because a Defendant who has not filed a Counter-Claim cannot formulate issues for determination outside those contained in the Originating Summons. He cited **ACHU VS. C. S. C. CROSS RIVER STATE (2009) 3 NWLR (PT.1129) 475 AT 507 to 508 PARAGRAPHS F – D.**

He also submitted that Claimants' case primarily revolves and rotates around the interpretation of the provisions of the Local Government Law of Edo State, 2000 (as amended in 2002), more particularly, Section 19(1-9) of the said Law that stipulates the procedures for the removal of the elected Chairman and Vice Chairman of the Council, thus the Originating Summons procedure is apt. he cited **IKPEAZU V. OGAH (2017) 6 NWLR (Pt. 1562) 439; DANLADI V. DANDIRI & 6 ORS (2015) 2 NWLR (Pt. 1442)124.**

He further contended that, contrary to the submissions of the Defendants, the jurisdiction of this Court has been ignited upon the complaint of non-compliance with the procedures listed in Section 19(1-9) of the Local government laws of Edo State 2000 (as amended in 2002). He cited **AGBASO V. SPEAKER, IMO STATE HOUSE OF ASSEMBLY & ORS (2014) LPELR-24298(CA); DAPIA TRUNC & ORS V. DARIYE & ANOR (2007) LPELR-8241(CA), EKRENYONG V. UMANA**

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(2009) 14 NWLR (PT. 1162) 509, INAKOJU V. ADELEKE (2007) 4 NWLR (PT. 1025) 423.

He submitted that, from the documents tendered by the Defendants marked Exhibit EC1, the Legislative Council sat just twice. There is no evidence that the 7-Man Panel of Investigation was constituted. There is no evidence of proof of service of the purported Impeachment Notice on the Claimants. No resolution of the State House of Assembly approving or disapproving the impeachment of the holders of the office. He contended that the purported impeachment did not follow the laid down procedure and it is thus void. **GUSAU V. LAWAL (2023) 10 NWLR (PT. 1892) 297, MAGAJI V. LADO (2023) 14 NWLR (PT.1905)435.**

He submitted that the Defendants, who have knowledge of what transpired in the Panel, failed to produce any Record of Proceedings that related to the impeachment, hence it is deemed that the said record was withheld because it will be unfavourable to them. He relied on Section 167 (D) of the Evidence Act, 2011, as amended.

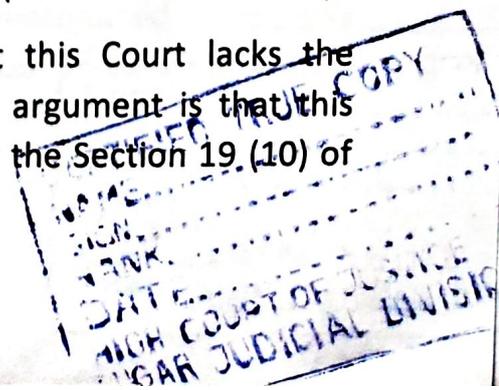
He urged this Honourable Court to discountenance the submission of the Defendants and grant the reliefs sought as per the Originating Summons.

The above represents a summary of the salient facts of the arguments of the respective Learned Counsel on both sides of the coin, for and against the grant of reliefs sought. I have taken due and keen consideration of the authorities cited, affidavits and the submissions of Learned Counsel and to my mind, the sole issue that calls for determination before this Court is simply;

Whether the Claimants are entitled to the reliefs sought in this Suit.

The fulcrum of the Claimants' claim in this action is that they were democratically elected by the electorates of the Etsako Central Local Government Council of Edo State under the Platform of the Peoples' Democratic Party and sworn into office on 4th day of September 2023 to represent them as Chairman and Vice Chairman of Etsako Central Local Government Council of Edo State, for a fixed term of Three (3) years. However, they were wrongly removed as the Chairman and Vice Chairman of Estako Central Local Government Council by the 1st to 13th Defendants without following the laid down procedures as contained in the Local Government Law of Edo State 2000 (as amended in 2002).

The 1st to 13th Defendants have contended that this Court lacks the jurisdiction to entertain the claims. The premise of this argument is that this action was commenced by the wrong procedure and that the Section 19 (10) of



The Local Government Law ousts the jurisdiction of the Court from considering issues bothering on impeachment of Local Government Chairman and Vice Chairman. This argument has been copiously dealt with in the preliminary objection raised by the 1st to 13th Defendants in this suit. It will be superfluous going over the issue again. As held in the preliminary objection, this Court is seised of the jurisdiction to entertain this Suit. I so hold.

The procedure for the removal of Local Government Council Chairman and Vice Chairman are well set out in Section (19) (1)-(9) of the Edo State Local Government Law, 2000 (as amended in 2002). The said section reads thus:

"Section 19

(1) The chairman or his vice will be removed from office in accordance with the provision of this section.

(2) Whenever a notice of any allegation in writing signed by not less than two thirds of the members in the legislative council:

(a) is presented to the leader of the Legislative Council;

(b) Stating that the holder of such office is guilty of gross misconduct in the performance of the functions of his office, detailed particulars of which shall be specified.

(3) Within fourteen days of the presentation of the notice to the leader of the Legislative Council (whether or not any statement was made by the holder of the office in reply to the allegation contained in the notice) the Legislative Council shall resolve by motion without any debate whether or not the allegation shall be investigated.

(4) A motion of the Legislative Council that the allegation be investigated shall not be declared as having been passed unless it is supported by the votes of not less than two third majority of all the members of the Legislative Council.

(5) within 7 days of the passing of a motion under the foregoing provisions of this section, the Legislative Council shall set up 7 man panel which shall be composed of people of proven integrity from outside the council not been member of any public service, Legislative Council or political party, to investigate the allegation as provided in this section.

(6) The holder of an office whose conduct is being investigated under this section shall have the right to defend himself in person or be represented before the panel by a legal practitioner of his own choice.

(7) The panel appointed under this section:

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(a) Within four weeks of its appointment reports its findings to the Legislative Council;

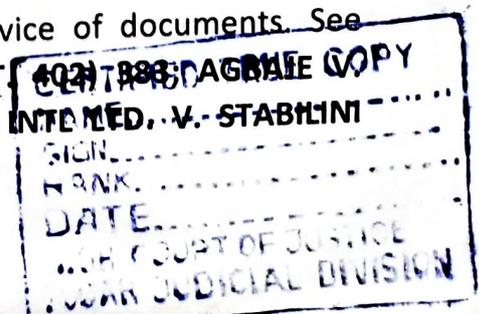
(b) Where the panel reports to the legislative council that the allegation against the holder of the office has not been proved no further proceeding shall be taken in respect of the matter.

(c) Where the report of the panel is that the allegation against the holder of the office have been proved, then within the seven days of the receipt of the report, the Legislative Council shall consider the report and if by resolution supported by not less than two third of all members of the Legislative Council, the report of the panel is adopted, such resolution shall be forwarded to the State House of Assembly that may re-examine the findings of the panel and access the merit of the resolution of the legislative council.

(8) The House of Assembly shall within four weeks return same to such Legislative Council within approval or disapproval by resolution supported by not less than two third majority of all the members.

(9) The holder of the office under investigation shall not be suspended from office within the period of investigation."

The Claimants have contended vehemently that, the process of impeachment as stipulated was not followed to the letter. The Claimants stated in their Affidavit that no Notice of Impeachment was served on them, nor were they given fair hearing before their purported impeachment. The 1st to 13th Defendants on the other hand, deposed that they followed the process as laid down by the Law in the impeachment of the Claimants. In proof of this, they tendered "Exhibit EC1. Exhibit EC1 contains Letter of Impeachment Notice, dated the 30th of December 2024 purportedly served on the Claimants. The Claimants have denied receipt of the said document. The Law is settled that, where it is alleged that a document was delivered to a person who denies receiving such document, proof of delivery to such person can be established by: (a) dispatch book indicating receipt; or; (b) evidence of dispatch by registered post; or, evidence of witness, credible enough that the (c) person was served with the document. The document is marked "dispatched". There is no such evidence and there is nothing indicating receipt of the document by the Claimants. Therefore, there is no evidence that the document was duly served and received by the Claimants through any of the means of proof of service of documents. See generally NLEWEDIM V. UDUMA (1995) 6 NWLR (PT. 402) 186; DAGBINE COPY FASHOLA (2008) 6 NWLR (PT. 1082) 90; CHEMIRON INTL MED. V. STABILINI



VISONONI LTD. (2018) 17 NWLR (PT. 1647) 62; OTI V. E.F.C.C.; (2020) 14 NWLR (PT. 1743) 48.

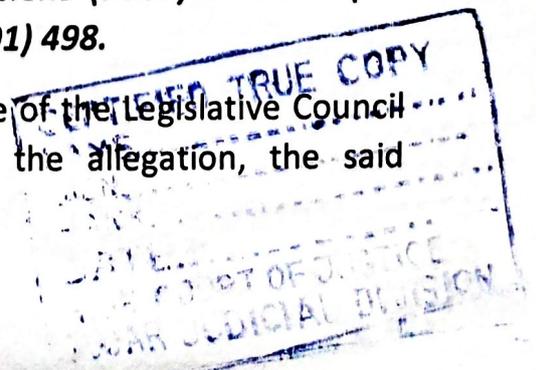
But assuming the Impeachment Notice was duly served on the Claimants, which I still hold it was not, the next step was for the Defendants to set up a Panel to investigate the allegation or allegations made against the Claimants. The Defendants stated in their Affidavit that they did set up a Panel to investigate the allegations against the Claimant and an overwhelming majority of the Legislative Council voted to impeach the Claimants, which vote was confirmed by the Edo State House of Assembly. It is elementary Law that the burden of proving a fact rests on the party, who asserts the affirmative of the issue in dispute. **IGIRIOGU V. SHARON PROPERTIES LTD. (2025) 5 NWLR (PT. 1984) 615; ODOM V. P.D.P. (2015) 6 NWLR (PT. 1456) 527.**

Section 19 (5) of the Edo State Local Government Law, requires that a Panel of investigation be set up within Seven (7) days of the receipt of the Motion for Investigation. The categories of persons to be members of the Panel are *“people of proven integrity from outside the council not been members of any public service, Legislative Council or political party”*. The Panel is required to meet within Four (4) weeks to investigate the allegations and the Chairman and Vice Chairman must be allowed to defend themselves in person or through a Legal Practitioner of their choosing and lastly, the Panel must make a finding, whether the allegation was proved or not. A perusal of the Exhibits EC.I purportedly relied on by the Defendants shows that, the Notice of Impeachment was dated 30th December 2024; the Letter of Impeachment was dated the 9th day of January 2025. That is a period of 10 days.

In **Abiodun v. C.J. Kwara State (2007) 18 NWLR (Pt. 1065) 109**; a case with similar facts as this present one, the Court of Appeal held:

“The law is that there must have been the report of an investigation made to the Council Legislature indicting the Chairman, then a 2/3 resolution by the Local Government Legislature to remove him from the office before any action can be taken against him... When political office holders are duly elected by the people exercising their democratic rights to elect those who should govern them, they should only be liable to removal by a college of their peers (who did not vote them in) through the strictest adherence to the provisions of the Constitution and the Law.” See also **Inakoju v. Adeleke (2007) 4 NWLR (Pt. 1025) 427; Akinmade v. Ajayi (2008) 12 NWLR (Pt. 1101) 498.**

Furthermore, Section 19(5) dealing with the role of the Legislative Council to set up a Panel of Investigation to investigate the allegation, the said



subsection uses the word "shall". The word "shall" is a word of command as used in subsection (5). It shows that the processes as laid down are mandatory and the said provision does not admit substantial compliance. Any deviation from the prescribed procedure can vitiate the entire process. See **YANTABA V. GOV., KATSINA STATE (2022) 1 NWLR (PT. 1811) 259, ADELEKE V. O.S.H.A. (2006) 16 NWLR (PT. 1006) 608.**

Where a statute provides for a pre-condition for the doing of a thing or for the attainment of a particular situation, the pre-condition must be fulfilled or satisfied before the particular situation will be said to have been attained or reached. The common and popular pet expression for it is "condition precedent". A condition precedent is something that must happen or that must be performed before the estate to which it is annexed can vest or be enlarged; it is an act that is to be performed before some right dependent thereon accrues or some act is performed. See **INAKOJU V. ADELEKE (SUPRA); JIMOH V. OLAWOYE (2003) 10 NWLR (PT. 828) 307.**

Going by the contention of the Defendants that a Panel was set up to investigate the allegation against the Claimants, the following questions beg for answers. (i) When was the Panel of Investigation set up? (ii) Who were the members of the said Panel if any was ever set up? (iv) When did the Panel meet to investigate the allegations against the Claimants? (iv) Where the Claimants allowed to defend themselves in person or through a Legal Practitioner of their choosing? Lastly, (v) what were the findings of the Panel? None of these questions has been answered by the Defendants.

Obviously, a Panel cannot be set up by words of mouth and the persons in the Panel cannot be invisible, neither can the findings of the Panel be unascertainable.

I therefore find that no Panel was ever set up to investigate the allegations allegedly made against the Claimants by the Defendants.

I have also perused **Exhibit EC6** of the Claimants' Affidavit in Paragraph 29 of the supporting Affidavit. It is a pre action notice dated 12th March, 2025 served by the Claimants pursuant to Section 152(1-2) of the Edo State Local Government Law 2000.

The grievances of the Claimants were laid before the 1st Defendant as acting chairman of the 11th Defendant before filing this suit.

The 1st to 13th Defendants did not send any reply to the letter of the Claimants dated 12th March, 2025.

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FUGAR JUDICIAL DIVISION

In the absence of any reply by the 1st to 13th Defendants denying the allegations and demands contained in this pre action notice, I hereby presume the facts setting out the grievances of the Claimants in the said letter as uncontroverted. And I so hold.

Furthermore, I have examined Exhibits EC I at Paragraph 9 of the Counter Affidavit of the 1st to 13th Defendants. It is a bundle of documents containing the followings;

- a. Notice of Impeachment signed by the 1st Defendant as Leader of the Legislative Arm addressed to the 1st and 2nd Claimants dated 30th of December, 2024.
- b. Proceedings of emergency sitting of the Legislative Council of the Local Government on 9th January, 2025 impeaching the Claimants from office which proceeding was signed by the 1st Defendant alone as Leader of the Legislative Arm.
- c. Letter of impeachment dated 9th January, 2025 signed by 1st Defendant and other members of the Legislative Arm addressed the 1st and 2nd Claimants.
- d. Notice to the Speaker of the Edo State House of Assembly dated 9th January, 2025 signed by the 1st Defendant notifying the Speaker of the Resolution of the Etsako Central Legislative Arm.

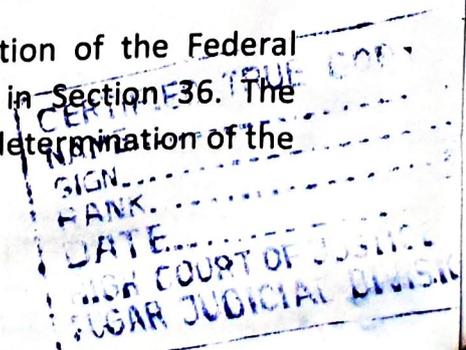
The name and signature of the Clerk of the Legislative Arm or any public officer assigned the duties of the Clerk are completely absent from the above listed correspondence and documents of the purported impeachment of the Claimants.

What is more, Cephass Yakubu, the 1st Defendant in his capacity as Leader of the Legislative Arm who signed the Notice of Impeachment was the same person that presided over the meeting the Claimants were impeached and when the alleged impeachment was completed, the same Cephass Yakubu was appointed as the Acting Chairman of Etsako Central Local Government.

In other words, the 1st Defendant was the accuser, the scribe, the investigator, and the head of the jury that ousted the Claimants from office and there after the 1st beneficiary of the Claimants' exit from office.

This clearly shows that the 1st Defendant was a judge in his own case.

One of the fundamental provisions of the Constitution of the Federal Republic of Nigeria (CFRN), 1999 (as amended) is found in Section 36. The Section provides for the requirement of a fair hearing in the determination of the



civil rights and obligations of a person, whether before a Court or a Tribunal established by Law. The constitutional provision mainly stems from two Common Law principles of natural justice. These are the principles of *audi alteram partem* and *nemo judex in causa sua*. The right to a fair hearing entrenched in section 36(1) of the 1999 Constitution entails not only hearing a party on any issue which could be resolved to his prejudice but, also ensuring that the hearing is fair and in accordance with the twin pillars of justice. Thus, where a party is not heard at all in a matter which affects his right or the trial is adjudged unfair, any judgment generated therefrom, becomes a nullity and of no legal consequence. It is bound to be set aside. Fair hearing lies in the procedure followed in the determination of a case and not in the correctness of the decision. It is synonymous with fair trial and implies that every reasonable and fair-minded observer who watches the proceedings should be able to conclude that the Court or Tribunal as established by Law, has been fair to all the parties.

For a trial to be fair, the Court or Tribunal must give equal treatment, opportunity, and consideration to all concerned. When a party is not heard or given the opportunity to be heard in a case, the principles of natural justice are abandoned. See **PRIMEVIEW HOTEL LTD. V. HOTEL PRESIDENTIAL LTD. (2025) 5 NWLR (PT. 1984) 167.**

The principle of *Nemo judex in causa sua*, is the second pillar. It is most relevant to this matter, it means "no man shall be a Judge in his own cause". What this doctrine postulates is that no person can judge a case in which he has a personal interest or involvement. That rule of natural justice is not confined to a cause in which the person is a party but it also applies to a cause in which the person has an interest or that he is involved in. It underlines the doctrine of reasonable apprehension of bias, which is not permitted, because even a light taint of bias would destroy the integrity of the proceedings conducted in such a manner. If a principle of natural justice is violated, it does not matter, if the proper thing had been done, the decision would have been the same; the proceedings would still be null and void. In other words, if the principles of natural justice are violated in respect of any decision, it is immaterial whether the same decision would have been arrived at in the absence of the departure from the essential principles of justice; the decision must be declared to be no decision. See **L.P.D.C. V. FAWEHINMI (1985) 2 NWLR (PT. 7) 300; ANI V. OTU (2023) 8 NWLR (PT. 1886) 301. IN L.P.D.C. V. FAWEHINMI (SUPRA)**, the Supreme Court per Anigolu, J.S.C; observed thus:

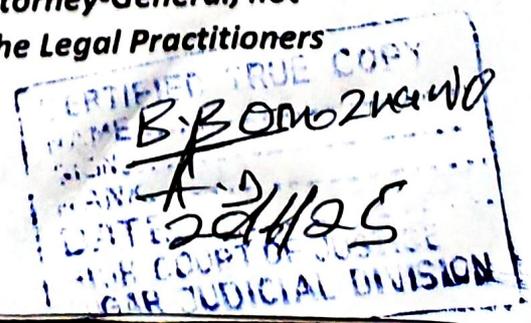
"Attorney-General of the Federation initiating the proceedings, as was done in the instant appeal, by the letter to the Respondent

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(Exhibit C) and the charges preferred in Exhibit D1. Both the letter (Ex.C) and the charge sheet (Ex. D1) were signed by Mrs. O. O. Fatunde, an officer in the Attorney-General's Office who, in signing the charge sheet (Ex. D1) described herself as the "Prosecutor". And so, we arrived at the situation in which the Attorney-General of the Federation (then Chief Richard Akinjide), acting through his staff, received the complaint of the alleged misconduct, drafted the charges as the "Prosecutor" and got himself to sit as the judge; indeed, sat as the judge on Monday 25th January 1982 in the Conference Room of the Nigerian Law School, Victoria Island, Lagos, (see Gani's affidavit sworn to on 26th January 1982) on which date he adjourned the trial to 22nd February 1982; and would have continued sitting and adjudicating on the matter on the said 22nd February 1982 had his proceedings not been arrested by the order nisi of prohibition of the High Court made on 27th January 1982. He would have been the accuser and the judge at the same time. Such a proceeding would obviously have been null and void on that score as being an infringement of the principle nemo judex in causa sua."

In his concurring opinion, Eso JSC stated thus:

"Nothing could be worse than the instant case in seeking an example of breach of natural justice. The accusers are not just merely the judges but they are in fact impatient accuser judges; and undisguisedly so. The Hong Kong case of Wong Pun Cheuk v. Medical Council of Hong Kong and the Attorney-General of Hong Kong Law Reports Part IV Oct-December, 1964 to which the respondent drew our attention is apt. There the Medical Director referred the case of a medical practitioner to the Medical Council and the Medical Director then went and sat as the Chairman of the tribunal to decide the complaint made by himself. The Hong Kong court declared the action of the tribunal against the principles of natural justice as I will also in agreement with my learned brother Aniagolu, J.S.C. agreeing with the reasons which he had so much in detail put across, hold the action of the appellant in this case to be in offence of the clear and age-long principles of natural justice. With the involvement of the Ministry of Justice as it is in this case I cannot see how the case against the respondent could ever rightly go on if the Attorney-General, not particularly Akinjide, remains the Chairman of the Legal Practitioners



Disciplinary Committee as provided for by section 9(2) of the Legal Practitioners Act”.

In *Abalaka v. Min. of Health* (2006) 2 NWLR (Pt. 963) 105, the Court of Appeal Per I.T. Muhammad, J.C.A (later C.J.N) held:

“A man is said to be a Judge in his own cause when he is likely to be biased in favour or against either, for reason of interest or favour. In other words, if he has either pecuniary or proprietary interest in the subject matter in litigation, or because of his relationship with either of the parties, he is likely to be biased in favour of or against him, then he ought not to be the Judge...”

In considering whether there was real likelihood of bias, the court does not look at the mind of the Judge himself or at the mind of the Chairman of the Tribunal, or whoever it may be, who sits in a judicial capacity. It does not look to see if there was a real likelihood that he would, or did in fact, favour one side at the expense of the other. The court looks at the impression which would be given to other people... There must be circumstances from which a reasonable man would think it likely or probable that the justice, or chairman, as the case may be, would, or did, favour one side unfairly at the expense of the other. The court will not inquire whether he did, in fact favour one side fairly. Suffice it that reasonable people might think he did. The reason is plain enough. Justice must be rooted in confidence; and confidence is destroyed when right minded people go away thinking: the Judge was biased”

See also *Opeola v. Opadiran* (1994) 5 NWLR (Pt. 344) 368; *U.C.H.B.M. v. Morakinyo* (2014) 16 NWLR (Pt. 1434) 589.

Similarly in this case, it is clear that the same Legislative Council who raised allegations against the Claimants, without any investigation by an independent Panel, found the Claimants liable and impeached them. After the purported impeachment, the same people elected the 1st Defendant who spearheaded the impeachment as the new Acting Chairman of the Local Government. This conduct of the 1st- 10th Respondents certainly violated the constitutional rights of the Claimants and breached the provisions of Section 19 (1)-(9) of the Local Government Law of Edo State, it is highly reprehensible and no court of justice will allow same acts of the 1st to the 10th Defendants to stand.

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DATE: 28/9/25
JUDICIAL OFFICE

On the whole, I find merit in the case of the Claimants and I hold that they are entitled to the reliefs sought in their Originating Summons.

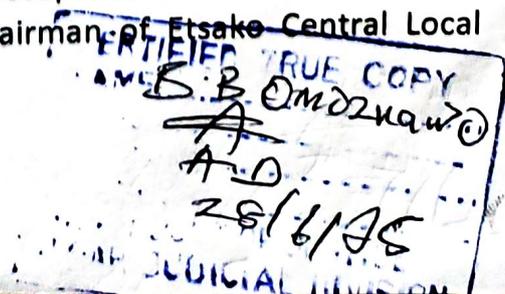
Accordingly, I hereby declare as follows;

1. That, the purported removal/impeachment of the Claimants from the office of Chairman and Vice Chairman of Etsako Central Local Government Council, Edo State by the 1st to 10th Defendants without Notice of any allegation signed by not less than Two-Third of the membership of the Etsako Central Legislative Council, to the Leader of the Legislative Council, stating that the Claimants are guilty of gross misconduct (if at all) or at all, is unconstitutional, illegal, null, void and of no effect whatsoever.
2. That the purported removal/impeachment of the Claimants from the office of the Chairman and Vice Chairman of Etsako Central Local Government Council, Edo State by the 1st to 10th Defendants, purporting to act on behalf of the Etsako Central Legislative Council, without any motion by the Legislative Council that the allegation (if at all) be investigated, and without setting up seven man panel composed of people of proven integrity to investigate the purported allegation or at all, is unconstitutional, illegal, null and void and of no effect whatsoever.
3. That, the purported removal of the 1st and 2nd Claimants from the office of the Local Government Chairman and Vice Chairman of Etsako Central Local Government Council of Edo State by the 1st to 10th Defendants without causing a copy of the Notice of Impeachment (if any) to be served on the Claimants and on each member of the 11th Defendant within Seven (7) days of the receipt of the notice (if any), or at all, amounts to a contravention of the Constitution of the Federal Republic of Nigeria (CFRN), 1999 (as amended), and therefore ultra vires, unconstitutional, illegal, null, void and of no effect whatsoever.
4. That, within the meaning and/or intention of the provision of Section 7 and Section 10 of the Constitution of the Federal Republic of Nigeria (CFRN), 1999 (as amended), the removal of the Claimants from the office of Chairman and Vice Chairman of Etsako Central Local Government Council, Edo State by the 1st to 10th Defendants is unconstitutional, illegal, null, void and of no effect whatsoever.

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RANK: A. J.
DATE: 2.8.2015
HIGH COURT OF JUSTICE
FUGAR JUDICIAL DIVISION

Constitution of the Federal Republic of Nigeria (CFRN) 1999 (as amended), read together with Section 19 of the Local Government Laws of Edo State 2000 (as amended in 2002), the Claimants have not been found guilty or wanting, of any gross misconduct for which they can be removed/impeached from the office of the Local Government Chairman and Vice Chairman of Etsako Central Local Government Council Edo State.

5. That, having regards to Section 7 and 36(1) of the 1999 Constitution of the Federal Republic of Nigeria (CFRN), 1999 (as Amended) and Section 19 of the Local Government Law of Edo State 2000 (as amended in 2002), the purported removal of the Claimants from office as the Chairman and Vice Chairman of Etsako Central Local Government Council of Edo State by the 1st Defendant on the 6th day of January 2025 is unconstitutional, illegal, null, void and of no effect whatsoever.
6. That, the purported swearing-in of the 1st Defendant as the occupant of the Office of the Local Government Chairman of Etsako Central Local Government Council of Edo State (11th Defendant) is in contravention of Sections 7 and 36(1) of the 1999 Constitution of the Federal Republic of Nigeria (CFRN), 1999 (as amended) and Sections 10 and 19(1-9) of the Local Government Law of Edo State 2000 (as amended in 2002) and therefore illegal, unconstitutional, null, void and of no effect whatsoever.
7. That the Claimants are still the occupants of the office of the Chairman and Vice Chairman of Etsako Central Local Government Council of Edo State (12th and 13th Defendants) and that the seats of the Chairman and Vice Chairman of Etsako Central Local Government Council of Edo State have not become vacant.
8. That, the refusal and/or failure of the 14th Defendant's Officers to provide security and guarantee the security of the Claimants as occupants of the office of the Chairman and Vice Chairman of Etsako Central Local

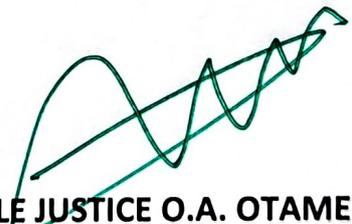


Government Council of Edo State is unlawful, null, void and unconstitutional.

I hereby make the following Orders;

- (i) AN ORDER restoring or reinstating the Claimants to their offices as the Chairman and Vice Chairman of Etsako Central Local Government Council of Edo State, the 12th and 13th Defendants herein; together with the rights, privileges, paraphernalia and perquisites of the said offices.
- (ii) AN ORDER of perpetual injunction, restraining the Defendants either by themselves, their agents, privies, representatives or associates, persons acting for or through them and/or deriving authority from them from preventing the Claimants from performing the functions of the office of the Local Government Chairman and Vice Chairman of Etsako Central Local Government Council of Edo State.
- (iii) AN ORDER mandating, directing and/or compelling the 14th Defendant, the Inspector General of Police to provide protection to the Claimants for the peaceful resumption and discharge of their duties and functions as bestowed in their offices.

I award cost of #200,000 (Two Hundred Thousand Naira) against the 1st to the 13th Defendants in favour of the 1st and 2nd Claimants in this suit.



HONOURABLE JUSTICE O.A. OTAMERE
JUDGE

APPEARANCES;

Anderson Asemota, Irunoje Garuba and C.O Egwamwense, J.O Okeme for the Claimants.

Chief Y. Ambali holds the brief of Evans Ogbelfun for the 1st to 13th Defendants.

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JAMES B. BOMAZU
SIGN. A. J. 28/1/16
COURT OF JUSTICE
JUDICIAL DIVISION