

**IN THE COURT OF APPEAL**  
**KADUNA JUDICIAL DIVISION**  
**HOLDEN AT KADUNA**  
**ON FRIDAY THE 28<sup>TH</sup> DAY OF JUNE, 2019**  
**BEFORE THEIR LORDSHIPS**

**SAIDU TANKO HUSAINI**  
**OLUDOTUN A. ADEFOPE-OKOJIE**  
**JAMES GAMBO ABUNDAGA**

**JUSTICE, COURT OF APPEAL**  
**JUSTICE, COURT OF APPEAL**  
**JUSTICE, COURT OF APPEAL**

**CA/K/652/2017**

**BETWEEN**

IBRAHIM SHEHU SHEMA-----APPELLANT

AND

1. THE GOV. OF KATSINA STATE
2. THE ATTORNEY GENERAL OF KATSINA STATE
3. ADO MUHAMMED MA'AJI
4. CSP NASIR ABDULMAJID
5. HAJIYA INDO MOHAMMED
6. ALHAJI ISA MUHAMMED KATSINA
7. ABDULSAMAD ZANGON DAURA
8. BASHIR ABUBAKAR YUSUF

-----RESPONDENTS

**J U D G M E N T**  
**(DELIVERED BY SAIDU TANKO HUSAINI, JCA)**

This appeal is against the decision/ruling of the High Court of Katsina State delivered on the 5<sup>th</sup> December, 2017 striking out the suit, the Originating Summons dated the 6<sup>th</sup> June, 2017 and filed by the appellant on the 7<sup>th</sup> June, 2017.

That decision or ruling was predicated on the Motion on Notice by which the Respondents prayed the court below to strike out or dismiss the

suit filed by the appellant as incompetent thereby robbing the court below, the exercise of jurisdiction over the matter.

The facts leading to this appeal can be summarised from the printed record of appeal.

Shortly after the inauguration of the incumbent, Aminu Masari as the Governor of Katsina State, he caused a Commission of inquiry to be set up to inquire into the activities of the past government headed by the appellant, Ibrahim Shehu Shema, the former Governor of Katsina State. The Commission which was set up to investigate alleged loss of funds and properties during the administration of the appellant had as its chairman, Hon. Justice Mohammed Ibrahim Sirajo. At the commencement of its work, the commission caused to be served on the appellant, Notice of Presentation of Memoranda and requested of him to respond to same within 14 days. He did not. Rather the appellant challenged the Constitutionality of the Commission of inquiry vide the suit instituted at the High Court of Katsina State by way of the Originating Summons, as suit No. KTH/60/16. The court, after taking arguments of counsel, dismissed the suit.

The appellant, aggrieved by that decision of the High Court, appealed to the Court of Appeal in Appeal No. CA/K/430/2016 on the 19<sup>th</sup> May, 2017 which allowed the appeal in part and set aside the appointment of Hon. Justice Mohammed I. Sirajo as chairman of the Panel, thereby prohibiting him from sitting. The Commission of Inquiry, nonetheless continued with sitting, without the presence of Mohammed I. Sirajo as Chairman and



submitted a report under the Chairmanship of Ado Mohammed Maaji, the 3<sup>rd</sup> Respondent.

At the sitting held or conducted by the Commission of Inquiry on 1<sup>st</sup> June, 2017, the Appellant, through his counsel protested on the propriety of that sitting of the Commission hence the fresh or another Originating Summons filed at the instance of the appellant on the 19<sup>th</sup> May, 2017 which the High Court also struck out on the 5<sup>th</sup> December, 2017 as indicated earlier, hence the appeal to this Court vide two(2) Notices of appeal. On the date the appeal was heard, the appellant through his counsel, applied to withdraw the Notice of appeal filed on the 5<sup>th</sup> December, 2017 and requested to rely on the Notice of Appeal filed on the 19<sup>th</sup> December, 2017 in arguing the appeal. The Notice of Appeal containing Twelve (12) Grounds of appeal, is at pages 641-652 of the record of appeal. In the meantime the request of the appellant to withdraw the Notice of appeal of four (4) grounds filed on the 5<sup>th</sup> December, 2017, should be and same is hereby granted. The said Notice of Appeal withdrawn, is struck out without much ado.

The record of appeal is before us, the same having been transmitted on 20<sup>th</sup> December, 2017. Thereafter Counsel on both sides filed and exchanged their briefs of argument in terms of the briefs filed as follows:-

- (i) The appellant's brief of argument filed on the 1<sup>st</sup> February, 2018.
- (ii) The Respondent's brief of argument dated 23<sup>rd</sup> March, 2018 and deemed filed on the 26<sup>th</sup> March, 2018.

(iii) Appellant's Reply brief filed on the 9<sup>th</sup> April, 2018.

Learned counsel on both sides respectively, at the hearing, adopted their briefs of argument.

In the brief of argument of the appellant at pages 4-5 are three (3) issues formulated or identified for the determination of Court viz:

- "i. Whether the lower court did not fall into serious error and deny the appellant his right to fair hearing, in its failure to consider and pronounce on all the issues duly raised and submitted for determination before it. (Grounds 1, 8, 11 and 12).*
- ii. Having regard to the explicit questions for determination, and reliefs sought by the appellant before the lower court, whether the said court did not come into a perverse decision by declining jurisdiction over the appellant's case, rather than granting its reliefs. (Grounds 2, 3, 4, 9 and 10).*
- (iii) Whether the lower court was wrong in holding that the appellant's action was wrongly commenced by way of Originating Summons, thus striking it out."*

Respondents similarly identified three(3) issues at page three (3) of their brief for determination thus:

- "1. Whether having regard to the provisions of the High court (Civil Procedure) Rules of Katsina State, the trial court was right*



*when it held that the action was wrongly commenced by Originating Summons (Grounds 5, 6, and 7).*

2. *Whether having regard to the questions for determination and the reliefs claimed, the lower court was right when it held that it has no jurisdiction to determine the Originating Summons. (2, 3, 4 and 10).*
3. *Whether the trial court, having found that it has no jurisdiction to hear the suit, violated the right of the Appellant to fair hearing by failing to determine the substantive Originating Summons. (Grounds 1, 8, 9, 11 and 12)."*

Issues formulated by the respondents in their brief of argument are apt. I will address this appeal therefore based on the three (3) issues formulated in the Respondent's brief of argument.

#### **ISSUE NO. 1**

*Whether having regard to the provisions of the High court (Civil Procedure) Rules of Katsina State, the trial court was right when it held that the action was wrongly commenced by Originating Summons.*

#### **COUNSEL'S SUBMISSION**

Submissions made for the appellant on this point are contained in his brief of argument at pages 29-34 of the appellant's brief of argument, wherein it is argued, most significantly, that the facts giving rise to the

case on appeal, not being facts upon which parties have disagreed, the necessity of bringing the suit by way of Writ of Summons does not arise hence the suit as begun by the appellant, by Originating Summons was appropriate and the Court below, was in error to strike out the suit on the basis that paragraphs 4, 6 and 7 of the affidavit in support of the Originating Summons, presented issues of disputed facts, based upon which the suit ought to have been initiated by way of Writ of Summons. Learned appellant's counsel in his brief attempted to strike same distinctions or differences between actions which can be initiated by way of Originating Summons and those actions the law require should be initiated by Writ of Summons. He cited a number of authorities to this effect to include decisions in **Din v. A/G of the Federation (1986) 1 NWLR (Pt. 17) 471, 485-486; Obasanjo v. Babafemi (2000) 15 NWLR (Pt. 689) 1, 17, Nigeria Breweries Plc v. Lagos State Board of Internal Revenue (2002) 5 NWLR (Pt. 759) 1, 14; Alabankdi v. A/G of the Federation (2002) 17 NWLR (Pt. 796) 338, 360; Habib (Nig) Bank Ltd v. Ochete (2001) 3 NWLR (Pt. 699) 114, 135.**

Learned counsel for the respondent argued per contra stating that the court below was/is in order when it held that the appellant wrongly commenced his suit by way of Originating Summons and that the judgment of the Court of Appeal in Appeal No. CA/K/430/2016 between the parties herein was/is not a "document" capable of interpretation using the Originating Summons procedure.

In reference to questions 1, 2, 3, 5 and 7 in the Originating Summons, it was contended that those questions are answerable only

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upon the interpretation of the judgment of the Court of appeal, annexed to the Originating summons as Exhibit 7 being interpreted. It is argued further by reference to Order 1 Rule 2(2) of the High Court (Civil Procedure) Rules of Katsina State that the Judgment of the Court of Appeal (Exh. 7) does not fall within the category of "other documents" under Order 1 Rule 2(2) capable of interpretation by the court so far as the judgment of the Court of Appeal in Appeal No. CA/K/430/2016 is not a document envisaged under Order 1 Rule 2(2) of the Civil Procedure rules of Katsina State.

Learned respondent's counsel in his brief agreed with the appellant that certain facts are not in contention in this appeal but made reference to certain material facts which he said are in dispute. These facts he said, include:-

- (i) The fact that the Court of Appeal did not make any Order against the Commission of Inquiry, including how it will continue with its proceedings.
- (ii) The fact that the appellant was duly served with formal notices in addition to announcements made via public media.

He argued that those facts stated above are in dispute between the parties. He referred us to paragraph 9(g)-(j) of the counter-affidavit at pages 524-525 of the record. He argued further stating that the case of the appellant relates to the extent of Orders of the Court of Appeal and whether the appellant was given fair hearing. He argued that those facts

relevant to the cause of action were seriously disputed by the respondents. We were urged to resolve this issue in favour of the respondents.

### **RESOLUTION OF ISSUE NO. 1**

The various High Court (Civil Procedure) rules make provisions for the way and manner by which a given suit or action can be instituted or commenced. See in particular, Order I of the High Court (Civil Procedure) Rules of Katsina State. Thus:

- (i) actions in which a claim is made by a plaintiff for any relief or remedy for any part or other civil wrong, or
- (ii) actions in which a claim made by the plaintiff is based on an allegation of fraud, or
- (iii) action in which a claim is made by the plaintiff for damages for breach of duty, or
- (iv) actions in which a claim is made in respect of infringement of a patent, trade mark, copy right, intellectual or other propriety interest of whatever kind, or
- (v) actions in which a claim for declaration is made by an interested person, shall be commenced by way of Writ of Summons under Order 1 Rule 2(1) High Court Rules of Kaduna State.

Proceedings which can be begun by Originating Summons on the other hand are such suits or actions which the sole or principal question at



issue is, or is likely to be, one of construction of a written law or of any instrument made under any written law, or of any deed, will, contract or other document or some other question of law, or actions where there is no substantial dispute of fact, then such actions may be begun by Originating Summons under Order 1 Rule 2(a)(b) of High Court Civil Procedure Rules.

The Rules further make provision for actions which may be begun by Originating Motion or Petition under Order 1 rule 3 of the High Court (civil Procedure) Rules of Katsina State.

Our law report are inundated with decisions of Courts in circumstances under which actions may be begun by Writ of Summons or Originating Summons. For instance, action must be commenced by Writ of Summons where facts are in dispute or notoriously so, see **Oloyo v. Alagbe (1983) 2 SCNLR 36; Doherty v. Doherty (1967) ALL NLR 245; Famfa Oil Ltd v. A/G of the Federation (2003) LPELR-1239 (SC).**

Originating Summons on the other hand are useful to commence actions where there is no dispute on questions of facts or the likelihood of such disputes, like in a situation where the issue is to determine questions of construction of statutes, deeds or wills. See **Ejuira v. Idris (2006) 4 NWLR (Pt. 971) 538, 560; Ezengwe v. Nwawulu (2010) 4 NWLR (Pt. 1183) 159 (SC).** The Apex court has held in **FAMFA Oil Ltd v. AG of the Federation & Ors. (2003) LPELR-1239** that:

***"The very nature of an Originating Summons is to make things simpler for hearing. It is***

*available to any person claiming interest under a deed, will or other written instrument whereby he will apply by Originating Summons for the determination of any question of construction arising under the instrument for declaration of his interest..... It is a procedure where the evidence in the main, is by way of documents and there is no serious dispute as to their existence in the dealings of the parties to the suit. In such a situation, there is no serious dispute as to facts but what the plaintiff is claiming is the declaration of his rights. If there are serious disputes as to facts then a normal writ must be taken out and not Originating Summons....."*

It is discernable from the extract of the judgment of the Apex Court above, that the procedure by way of Originating Summons involves the construction of documents like deed, will and any other written instrument under which the party seeks for the declaration of his rights. Secondly, the procedure is not available in circumstances where there are disputed facts on material points.

I want to address this issue, now being considered, from those two (2) perspectives, that is:-

(A) The procedure by Originating Summons involves the construction of documents and interpretation of statutes for a declaration of right:-

If I may ask at this point, what is the nature of the document or instrument that the appellant had placed at the court below for construction vide the question submitted at that court for determination? I



want to refer to the questions posed for determination in the Originating Summons, particularly at pages 1-3 of the record of appeal. Of the seven (7) questions earmarked for determination, the judgment of the Court of Appeal in Appeal No. CA/K/430/2016 between **Ibrahim Shehu Shema v. Governor of Katsina State & Ors** feature prominently under questions No. 1-5 as one of the materials, the court below was asked to consider and make pronouncements in the declaration of the right(s) of the appellant herein as the plaintiff before that court.

By the questions posed vide the Originating Summons and referred to earlier, the court was invited to construct that judgment of the Court of Appeal, among other materials, to arrive at a decision. Hence the appellant or the learned counsel representing him cannot be heard to say as he did at the point of his submissions that the judgment of the Court of Appeal referred to earlier was not before that Court for construction or interpretation along with the instrument establishing the Katsina State Commission of Inquiry into alleged loss of funds and property.

Order 1 rule 2(a) and (b) of the High Court (Civil Procedure) Rules of Katsina State provide as follows:-

***"Proceedings may be begun by Originating Summons where:-***

***(a) The sole or Principal question at issue is, or is likely to be one of the construction of a written law or of any instrument made under any written law, or of any deed, will, contract or other document or some other questions of law; or***

***(b) There is unlikely to be any substantial dispute of fact...***

It is clear to me therefore that the materials the court must seek to construct or interpret by way of the procedure by Originating Summons are any written law or instrument or such documents in the nature of a "deed will, contract or other document". The judgment of the Court of Appeal referred to earlier, cannot by any stretch of imagination be put or placed in the category of a deed or a will or a contract or "other document" upon which any right accruable to the appellant was derived. In any case, Exhibit 7, i.e the judgment of the Court of Appeal being the judgment of a law court cannot be subjected to interpretation like a will or deed or instrument containing rights and obligations of parties. See: **R.A.G.C Ltd v. Akis (2006) 13 NWLR (Pt. 997) 333 (SC)** **N.I.M.B Ltd v. UBN Ltd (2004) (Pt. 885) Page 599 (SC)**; **Cupsel Sutern . Coy Ltd v. Eya & Anor. (2010) LPELR-1498 (CA).**

I will now proceed to the 2<sup>nd</sup> Segment to Issue no. 1, still being considered and the question is whether the suit giving rise to this appeal is one in which the facts, on material issues are seriously in dispute. My answer, is in the affirmative.

The appellant raised seven (7) questions for determination of Court vide the Originating Summons as per the record of appeal, beginning from page 1 of that record. By reason therefore of questions 1, 3 and 5 (among others) set down by the appellant for determination at pages 1-3 of the record of appeal, the appellant had himself dictated or set the tone when the question was raised as to "whether the 3<sup>rd</sup>-8<sup>th</sup> defendants were



qualified and right to constitute themselves as Commission of inquiry and sit as such Commission of inquiry".

The affidavit of Joshua Yakubu in support of the Originating Summons alluded to those assertions when he deposed to certain facts at paragraphs 4(iv), 6(x), 7(ix), 7(xiv), 9(i). At paragraph 7(xiv) of the affidavit in support of the Originating Summons, is the deposition to this effect:-

***"XIV. No instrument reconstituting the commission after the disqualification of the former chairman was shown, alluded to or given by the commission at the proceedings of that June 2, 2017."***

The respondents of course filed their joint counter-affidavit (record: pages 439-442) wherein they deposed at paragraph 8(g)(i)(j)(k) thus:

***"(g) The Court of Appeal Kaduna Division in its judgment of 19<sup>th</sup> May, 2017 also did not agree with the plaintiff herein that the commission of inquiry set up by Katsina State government is unlawful and is designed to witch hand, harass, oppress and blackmail the plaintiff.***

***X x x x x x x***

***(i) That the plaintiff's relief before the Court of appeal to prohibit the judicial commission of inquiry from sitting was not granted.***

***(j) That none of the reliefs sought by the plaintiff/appellant herein were granted either by the trial court or Court of Appeal, Kaduna***

***Division except the Order prohibiting the then Chairman, Hon. Justice Mohammad Ibrahim Sirajo that was granted.***

***(k) That the suit of the Plaintiff/Applicant as presently constituted is an invitation to interpret the judgment of the Court of Appeal, Kaduna Division."***

The court below did not assume jurisdiction over the substantive case and so did not rely on the counter-affidavit of the respondents. However, the appellant upon his own showing vide his Originating Summons, the questions raised for determination, the affidavit in support of the Originating Summons all point to the fact that issues are hotly being disputed. Confronted therefore, by the Motion on Notice and the affidavit in support (record: pages 419-438) the trial court held, in the ruling delivered on 5<sup>th</sup> December, 2017, which is the subject of this appeal, and which I am in tandem with, that the suit ought to have been commenced by way of Writ of Summons, in the light of the differences between the parties on issues of material facts some of which I have highlighted elsewhere in this judgment, but for the avoidance of doubt, I should reiterate therefore that there are substantial facts in dispute between the parties as clearly shown at paragraph 9 of the counter-affidavit of the respondents at pages 524-525 of the record. There is thus, differences between the parties on the extent of the orders of the Court of Appeal such that the suit commenced by the appellant ought not to have been by way of Originating Summons. I am in agreement with the court below therefore, that the mode or the method the appellant commenced his suit rendered the action incompetent



and the trial court rightly struck out the Originating Summons. That is what it should be. An action wrongly commenced is incompetent and this robs the Court below of jurisdiction to hear and determine same. See:- **Drexel Energy and Natural Resources Ltd & Ors. v. Trans Intern bank Ltd (2008) 18 NWLR (Pt. 1119) 388, 416**. Accordingly, I resolve issue no. 1 against the appellant and in favour of the respondents.

### **ISSUE No. 2**

*Whether having regard to the questions for determination and the relief claimed, the lower court was right when it held that it has no jurisdiction to determine the originating summons. (Grounds 2, 3, 4 and 10).*

Issue No. 2 in the respondent's brief of argument is similar or the same as issue No. 2 proposed or identified by the appellant in his brief of argument. The question simply put is whether or not the court below was right to decline jurisdiction over the Originating Summons before it.

### **COUNSEL'S SUBMISSIONS:-**

From the stand point of the appellant, the court below ought not to have declined jurisdiction because:

- (i) By the reliefs claimed in the Originating Summons, the court below has jurisdiction to entertain them: **Uzoukwu v. Ezenu II (1991) 6 NWLR (Pt. 200) 768, 784; Utih v. Onoyivwe (1991) 1 NWLR (Pt. 166) 166, 222.**
- (ii) The appellant was denied his right to fair hearing by the failure of the court below to assume jurisdiction over the Originating Summons.

- (iii) The trial court was not called upon to interpret the judgment of the Court of Appeal in Appeal No. CA/K/430/2016 delivered on 19<sup>th</sup> May, 2017 rather the court was called upon to enforce same. Section 287(2) of the Constitution of FRN, 1999 (as amended) and the decision in **Dinyadi v. INEC (2011) LPELR-950 (SC)** relied on.
- (iv) By the Court of Appeal Order Prohibiting Hon. Justice M. I. Sirajo as Chairman of the Commission, all proceedings of the Commission chaired by him were swept away along with him; **Sokoto State Govt. v. Kamdex Nig (Ltd (2007) 7 NWLR (Pt. 1034) 466, 491-489; Uwa v. Tiv Area Traditional council (2004) 11 NWLR (Pt. 884) 427, 431; Shanu v. Afribank (2002) 17 NWLR (Pt. 795) 185, 229-230; Ngige v. Obi (No. 3) (2012) 1 NWLR (Pt. 1280) 87, 103-104; Kalejaiye v. LPDC (Unreported) Appeal No. SC 429/2015 delivered on 15<sup>th</sup> March, 2019, among others.**
- (v) Where there is change in the composition of the adjudicative body, proceedings of that body must commence afresh.
- (vi) The commission of inquiry did not restart the proceedings but continued from where the former chairman stopped.
- (vii) That the entire proceedings of the Commission including the proceedings conducted on 1<sup>st</sup> June, 2017 were null and void: **Nyesom v. Peterside (2016) 7 NWLR (Pt. 1512) 452, 504-505.**



- (viii) The trial court or the court below should have assumed jurisdiction over the Originating Summons, filed by the appellant.

Arguing issue No. 2 for the respondents, it was submitted by learned counsel that:

- (i) The court below was right in the ruling when it struck out the Originating Summons.
- (ii) The appellant failed to obtain an order of the Court of appeal to set aside the Commission of Inquiry or stop the Commission from sitting or continuing to sit as prayed by the appellant vide suit No. KTH/60/2016.
- (iii) The appellant resubmitted the same prayers vide the fresh Originating Summons filed on the 7<sup>th</sup> June, 2017.
- (iv) That question No. 4 submitted for determination questioned the composition of the Commission of Inquiry.
- (v) That, the Originating Summons was not brought in line with due process as issues contained therein have already been thrashed out at the Court of Appeal.
- (vi) That appellant's appeal to the Supreme Court is over the judgment of the Court of Appeal on the same issues now resubmitted vide the Originating Summons: **Madukolu v. Nkemdilim (1962) 2 SCNLR 341; Aladejobi v. NBA (2013) 15 NWLR (Pt. 1376) 66, 81.**
- (vii) The ruling giving rise to this appeal is predicated on the Motion on Notice challenging the jurisdiction of the trial Court.

- (viii) That appellant's argument's on the legal effect of the disqualification of the Hon. M. I. Sirajo as Chairman of the Commission of Inquiry did not arise from the ruling of the trial court.

### **RESOLUTION OF ISSUE NO. 2**

The Ruling appealed against, that is the ruling of the court below delivered on 5<sup>th</sup> December, 2017 is not a decision given on the substance of the case. Rather, the ruling, predicated only on the Motion on Notice at page 419-425 of the record, prayed the Court below to strike out or dismiss the Originating Summons on account of:-

- (i) The Suit was improperly commenced by way of an Originating Summons which sought to interpret the judgment of the Court of Appeal.
- (ii) The court below lack jurisdiction to interpret the Court of Appeal judgment.

It is clear therefore that by that ruling not being a decision on the substance for which the Originating Summons was taken but on the propriety of that suit being taken at all. Given this position, the contestation by the appellant, through his counsel, touching on the merits of the case, on the failure or refusal of the trial court to venture into those areas, seem to me, to jump the gun and I so hold. The Originating Summons, indeed was not initiated or brought in line with due process and the court below rightly in my view, declined jurisdiction. See **Madukolu v. Nkemdilim (supra)**.



This submission or conclusion leads me naturally to issue No. 3 and that is whether the lower court, having found that it has no jurisdiction to hear the suit, violated the right of the Appellant to fair hearing by failing to determine the substantive Originating Summons (Grounds 1, 8, 9, 11 and 12). This question is similar to issue No. 1 proposed in the appellant's brief of argument at page 5.

### **COUNSEL'S SUBMISSIONS AND RESOLUTION OF ISSUE NO. 3**

The argument proffered by the appellant in his brief of argument at pages 5-18 essentially boil down to one thing and that is, that the appellant was not accorded fair hearing at the court below, a fact which border on the substance of the case, but the courts will only venture into hearing of case on the merit if and only when the case was ripe for hearing. By the Motion on Notice relied upon by the respondents, and which the court below agreed with, the Originating summons was not validly before the court. In other words, hearing of the Originating Summons was caught up by the said Motion on Notice, a motion akin to Preliminary Objection on the validity and competence of the Originating Summons. The purpose of a Preliminary Objection to the hearing of a suit is to terminate that suit in limine for incompetence, thereby robbing the court of jurisdiction to entertain it. See **Ezenwaji v. U.N.N (2017) 18 NWLR(Pt. 1598) 485, 512**. In those circumstances therefore, the question that the appellant was not given fair hearing at the court below, did not and should not arise, the trial court or the court below, having come to the conclusion that it lacked jurisdiction to entertain the matter.

Issue of jurisdiction raises a fundamental question and once raised, the court, where the issue came up must, with dispatch, address that question and where the objection is upheld, the court is bound to strike out the case for want of jurisdiction. See: **Ikechukwu v. FRN (2015) 7 NWLR (Pt. 1457) 1** where the Apex Court held that the court of appeal was right when it refused to consider the issues formulated by the parties after upholding the Preliminary Objection as to its jurisdiction. See further **Katto v. CBN (1991) 9 NWLR (Pt. 214) 126**. For all the reasons expressed above in this discourse, I also resolve issue Nos. 2 and 3 against the appellant and in favour of the respondents hence the appeal is dismissed.

The ruling of the High Court of Katsina State, the subject of this appeal, is affirmed.

I so order.



**SAIDU TANKO HUSAINI  
JUSTICE, COURT OF APPEAL.**



## COUNSEL

Chief Wole Olanipekun, OFR, SAN, FCIArb -

(with Dayo Akulaja SAN, Uyi Igunma, Esq.,

M. I. Abubakar, Esq., Napoleon O. I., Esq., Shola B., Esq.,

Vivian O., Esq., Esther Okoro, Esq.,)

} For the Appellant.

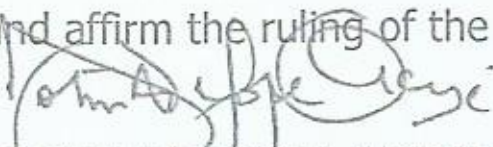
Hassan M. Liman, PhD, SAN, FCIArb, MON, - For the Respondents.

**CA/K/652/2017**

**OLUDOTUN ADEBOLA ADEFOPE-OKOJIE JCA**

I have read in draft the judgment of my learned brother, **Saidu Tanko Husaini, JCA,**

I also dismiss this appeal and affirm the ruling of the lower Court.



**OLUDOTUN ADEBOLA ADEFOPE-OKOJIE**

**JUSTICE, COURT OF APPEAL**

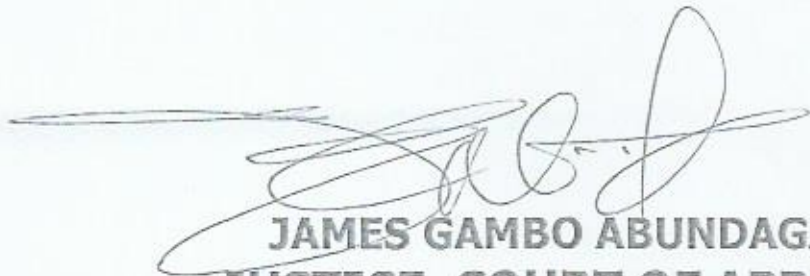


CA/K/652/2017

JUDGMENT

(DELIVERED BY JAMES GAMBO ABUNDAGA, JCA)

I have had the advantage of reading in draft the judgment delivered by my learned brother, **SAIDU TANKO HUSAINI, J.C.A.** He has painstakingly considered the vital issues raised in this appeal, and came to the conclusion which I find no reason to differ, that the appeal is dismissed. Having myself considered the arguments advanced in favour of this appeal and those against it, I find this appeal totally lacking in merit. I too dismiss it. In consequence, the ruling of the lower court is hereby affirmed.

A handwritten signature in black ink, appearing to read 'J. Gambo Abundaga', is written over a light blue horizontal band.

**JAMES GAMBO ABUNDAGA  
JUSTICE, COURT OF APPEAL**