

**IN THE CUSTOMARY COURT OF APPEAL,
IN THE FEDERAL CAPITAL TERRITORY
HOLDEN AT UTAKO, ABUJA.**

CORAM:

1. HON. JUSTICE ISTIFANUS GANDU _____ **PRESIDING JUDGE**
2. HON. JUSTICE YUNUSA IDRIS KUTIGI _____ **JUDGE**
3. HON. JUSTICE UNWANA SAM UBOM _____ **JUDGE**
4. HON. JUSTICE MUHAMMAD BOYI MARAFA _____ **JUDGE**

**DATED THIS 7th May 2026.
SUIT NO. FCT/CCA/CV/04/2023**

BETWEEN:

- | | | |
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| <ol style="list-style-type: none">1. MR. ISAH DAKUCHI GOMNA
(Suing for himself and on behalf of the Dakuchi Family
and Ruling House of Yegundna (Dawaki) Village.)2. MR. YAKUBU MADAKI (The Madaki of Yegundna) | } | PLAINTIFFS |
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AND

1. **MR. ZAKARI ACHIAREGE SHEKADA** _____ **DEFENDANT**

JUDGMENT

DELIVERED BY HON. JUSTICE YUNUSA IDRIS KUTIGI

By a writ of summons dated the 7th August 2023, and amended claims contained in the statement of claim, which was granted (by the leave of the Court through Motion on notice dated 23rd September, 2025) by this Honourable Court on 15th Day of October 2025, the Plaintiffs instituted this action, praying this Honourable Court for the following:

1. A declaration that the Dakuchi Ruling House and Shekada Ruling House are the two ruling Houses of Yegundna (Dawaki),

Gwagwalada Area Council, Federal Capital Territory, Abuja, from which succession to the seat of the ward Head rotates and rests on members of either of the two Ruling Houses.

2. A declaration that it is the rotational turn of the Dakuchi ruling house of Yegundna (Dawaki), Gwagwalada Area Council, Abuja to present, nominate or and appoint member of the Dakuchi Ruling house for turban, as the Ward Head of Yegundna (Dawaki), Gwagwalada Area Council, Abuja.
3. A declaration that the 1st Plaintiff, Mr. Isah Dakuchi Gomna, from the Dakuchi Ruling house is the rightful person nominated or and appointed, and recognized for the turban as the Ward Head of Yegundna (Dawaki) Gwagwalada Area Council, Abuja.
4. A declaration that the Defendant has not been appointed, turbaned or and recognized as the Ward Head of Yegundna (Dawaki), Gwagwalada Area Council, Abuja.
5. An Order compelling the emergence, appointment, installation or and turban of the 1st Plaintiff as the Ward Head of Yegundna (Dawaki), Gwagwalada Area Council, Abuja in accordance with the native laws and customs of Yegundna (Dawaki, Gwagwalada Area Council, Abuja.
6. An Order of Perpetual injunction restraining the defendant from acting, presenting himself or and parade himself as the Ward Head of Yegundna (Dawaki), Gwagwalada Area Council, Abuja while the rotational stool has not reverted to Shekada ruling house.

7. An Order of Perpetual injunction restraining the defendant from performing any traditional rites or and functions of the Ward Head, or and duties vested on the Ward Head of Yegundna (Dawaki) Gwagwalada Area Council, Abuja, except he has been appointed accordingly the Ward Head.

The Plaintiffs' case, in brief, is that the first Plaintiff is a Kingmaker and a Prince of Yegundna (Dawaki) village and of the Dakuchi ruling house, in Yegundna (Dawaki) village, Dobi district, Gwagwalada Area Council, Federal Capital Territory, Abuja. The second Plaintiff is also a kingmaker, a traditional title-holder, the Madaki of Yegundna (Dawaki) village, and, at the time of filing this suit, the acting Ward Head of Yegundna (Dawaki) village by virtue of his title. According to the Plaintiffs, the defendant is a Prince of Yegundna (Dawaki) village and of the Shekada ruling house and resides in the same village within the jurisdiction of this Honourable Court. According to the plaintiffs, there are two ruling houses in Yegundna (Dawaki) village: the Dakuchi and Shekada ruling houses.

According to the Plaintiffs, by the traditions and customs of Yegundna (Dawaki) village, the leadership of the village is based on the stool of the Ward Head, and the elevation to the stool of the Ward Head of Yegundna (Dawaki) village rotates between the two ruling houses of Dakuchi and Shekada.

According to the Plaintiffs, Konge Shawo, the grandfather of the 1st Plaintiff and the father of Dakuchi Konga, founded Yegundna (Dawaki) village in Abuja, and Dakuchi Konga is the father of the 1st Plaintiff. The 1st Plaintiff's grandfather, Konge Shawo, migrated from Kechi in

Gwagwalada Area Council, Abuja, to establish Yegundna (Dawaki) village in Gwagwalada Area Council, Abuja. Konge Shawo arrived at Yegundna (Dawaki) village with his son Dakuchi Konga, at which time, he was the head of the Dakuchi family. The Plaintiffs allege that Konge Shawo had a younger brother called Daki, which the Hausas usually pronounced as Daki, meaning Dawaki, when collecting taxes; hence the name Dawaki village, which in Gwari is also known as Yegundna. They further state that with the founding of Yegundna (Dawaki) village in the Federal Capital Territory, Abuja, the then head of the Dakuchi family became its first traditional leader – a role designated as the Ward Head of Yegundna (Dawaki) village from the Dakuchi ruling house.

According to the Plaintiffs, when Konge Shawo, the first Plaintiff's grandfather, died, Dakuchi Konga, the first Plaintiff's father, became the Ward Head of Yegundna (Dawaki) village due to his royal status and background. At that time, the Shekada ruling house, to which the Defendant belongs, was not yet established. The Plaintiffs state that it was during Dakuchi Konga's reign that Achiarege Shekada, the Defendant's father, migrated from Pai village in the present Kwali Area Council, initially settling at Tudun Wasa. He later migrated further, arriving at Yegundna (Dawaki) village with his wife, and from there became fully integrated into the family and the community. According to the Plaintiffs, the Shekada family is Bassa by tribe, while the Dakuchi family is Gbari by tribe. The Plaintiffs stated that the head of the Dakuchi ruling house at the time of his death pleaded with the family to include the Shekada Bassa family in the rulership and affairs of Yegundna (Dawaki) village. The

Plaintiffs agreed to fully integrate the Shekada family into the village's affairs, resulting in the emergence of two ruling houses.

According to the Plaintiffs, the Defendant's father, Achiarege Shekada, became the ward Head or traditional ruler of Yegundna (Dawaki) village after the death of the 1st Plaintiff's father. At that time, the 1st Plaintiff could not succeed his father because he was a child, and the 2nd Plaintiff, who had been chosen by the community, refused to be the Ward Head because he had female children and believed his farming would be neglected. During this process, the Defendant's father, Achiarege Shekada, was approached by the Sarki Pada (Mohammed Pada) to persuade him to become the Chief or traditional ruler of the village, albeit with some conditions: that the 2nd Plaintiff should accept to become the Madaki of Yegundna (Dawaki) village, that Shekada would become one of the ruling houses, and that the rulership should be rotated between the Dakuchi and Shekada ruling houses.

As a result, the 2nd Plaintiff and Sarki Pada (Mohammed Pada) took Achiarege Shekada to the Degechi Nda of Dobi village, Gwagwalada, Abuja, for turbaning, while the 2nd Plaintiff was also turbaned as the Madaki of Yegundna. On 25th February 2012, Achiarege Shekada, the Defendant's father, died, thereby making the stool of the traditional ruler of Yegundna (Dawaki) vacant. According to the Plaintiffs, when Achiarege Shekada from the Shekada ruling house died, it was the turn of the Dakuchi ruling house to present a candidate for the vacant stool of the Chief of Yegundna (Dawaki) village. It was at this point that the Dakuchi ruling house met in accordance with the native law and custom of

Yegundna (Dawaki) village and nominated the first Plaintiff as their preferred candidate. According to the Plaintiffs, it was the second Plaintiff who presented the first Plaintiff to the Defendant, who demanded certain items, including "Kola," and money, which were subsequently delivered to the Defendant.

However, according to the Plaintiffs, they were astonished when the Defendant suddenly presented himself as the candidate for the vacant stool of chief of Yegundna (Dawaki) village while they were awaiting a date for the appointment and turbaning of the first Plaintiff as the chief of Yegundna (Dawaki) village, on the grounds that he was the son of the late chief. According to the Plaintiffs, the Defendant has obstructed the installation of the 1st Plaintiff as Chief and has been making frantic efforts to be appointed Chief, hence the suit filed in this Honourable Court, as per the Plaintiffs' claims.

The Plaintiffs presented Mr. Yakubu Madaki (the Madaki of Yegundna), the 2nd Plaintiff, who testified as PW1 on 28th May 2024, and Mr. Isah Dakuchi Gomna, the 1st Plaintiff, who testified on 27th November 2024. Mr. Yakubu Madaki, who only understands the Gbari language, adopted his witness statement on oath on 27th November 2024 with the aid of an interpreter. Mr. Isa Dakuchi Gomna, the 1st Plaintiff, also adopted his witness statement on oath on 27th November 2024 with the assistance of an interpreter.

Under cross-examination by the Defendant's counsel on 28th May, 2024,

PW 1 (Mr. Yakubu Madaki), told this Honourable Court that he was the

same tribe (Gbari) with the 1st Plaintiff and that the Defendant was the immediate past chief of Dawaki. He also admitted in evidence that the Defendant is a prince of Dawaki. He further informed the court that he was the first Madaki and still remains a Madaki in Yegundna (Dawaki) village. Still under cross-examination, he informed this Honourable Court that he and the 1st Plaintiff are in the same village but from different families. PW1 further informed the court that he was duly appointed as the Madaki of Yegundna (Dawaki) village. He went further under cross-examination to inform the Court that Basa and Gbari were different tribes because they have different cultures and traditions. According to PW1, the Basa people call their traditional rulers 'Aguma', while the Gbari people call theirs 'Etsu'.

Still under cross-examination, PW1, when asked whether the District Head of Dobi installed and turbaned the village head of Dawaki, he answered in the affirmative. He further informed this Honourable Court that the District Head of Dobi, who turbaned the former chief, was late; however, someone was currently occupying the position of the District Head of Dobi. PW1, still under cross-examination, informed this Honourable Court that the name of the village that shares neighbourhood with his village is Kaida. The Defendant's Counsel asked PW1 if the District Head of Dobi was aware of their rotational arrangement. PW1 answered that they have no business with the District Head of Dobi.

On 27th November, 2024, during cross-examination, PW2 (Mr. Isah Dakuchi Gomna) told this Honourable Court that he was Gbari by tribe

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and that the Defendant was Bassa by tribe. He also informed the Court that the Defendant's father, who was deceased, was the Chief of Dawaki Village. Still under cross-examination, he stated that Gbari and Bassa have different cultures. He further informed the Court that the District Head of Dobi was the one who installed and turbaned the Chief of Dawaki, i.e., the Defendant's father. PW2 also told this Honourable Court that the neighbouring villages to Dawaki were Kaida and Kwalita, and they also have chiefs. When the Defendant's Counsel asked PW2 if Kaida and Kwalita rotate their chieftaincy stool, PW2 responded negatively. PW2 further explained that, in accordance with the tradition and custom of Dawaki village, a chief who is turbaned must stay in another person's house for 7 days, and when the Defendant's father was turbaned, he stayed in his house for 7 days.

Still under cross-examination, PW 2 informed this Honourable Court that all the traditional items, such as a knife, a cap, and shoes, of the Dawaki traditional stool were currently with the Defendant. When the Defendant's Counsel asked PW2 to specify in Gwagwalada the area where Chieftaincy was rotated, PW2 responded that he only knew about his own village. PW2 further stated that the 2nd Plaintiff was a member of his family and was turbaned as the Madaki of Dawaki by the Defendant's father, who was the former chief. PW2 also informed this Honourable Court that he had rejected the position of chief of Dawaki a long time ago because he was too young to assume the responsibilities.

The Defendant, on their part, filed a statement of defence dated 21st August 2023, which was filed on the same day. The Defendant's case is that the Bassa Shekada family and the Gbari Dakuchi family are distinct families with no shared interest in the stool of the Ward Head of Yegundna (Dawaki) village. Each family has its own customs and traditions, and therefore, the Plaintiffs are not entitled to the relief sought.

The Defendant called two witnesses, namely himself and another witness, Yakubu Magaji. The Defendant, Mr Zakari Achiarege Shekada, as DW1, who adopted his witness statement on oath on the 5th day of June, 2025, was cross-examined on the same day by the learned Counsel representing the Plaintiffs. During cross-examination, DW1 informed this Honourable Court that he knew who the 1st Plaintiff's father was, and that both his own father and the 1st Plaintiff's father were deceased. He stated that it was the 1st Plaintiff's father who died first, and that after the 1st Plaintiff's father passed away, his own father became the Ward Head. Still under cross-examination, DW1 confirmed that his father, Achiarege, was the first chief of Dawaki village, and that there was no chief before him. He also mentioned that his father's relationship with the 1st Plaintiff's father was that of co-residents in the same village. When asked if the Dakuchi ruling house was one of the ruling houses in Dawaki village, he answered in the negative.

Still under cross-examination, DW1 stated that he does not know Konge Shao or how he settled in Dawaki. He further informed the Court that his father had an elder brother, Bako, who lived in Dawaki. He mentioned that

his grandfather was the chief of Dawaki but was not turbaned. He also stated that while his grandfather was the Chief, Shekada, who established Dawaki, was the Village Head. Still under cross-examination, he told the court that for the appointment of the Ward Head of Dawaki, the Ruling House chooses the person for installation whenever it is time for selection. When asked if his ancestors migrated from Pai of Kwali Area Council to Dawaki, he replied no and said that by the time his grandfather settled in Dawaki, he was not born and never witnessed any agreement between his ancestors and the Dakuchi family. The only thing he observed was his father being turbaned as the Chief, and it was his family that arranged all the costumes for the turbaning. He finally stated that the 1st Plaintiff does not have the right to become the Chief of Dawaki.

The second witness of the Defence - DW2 - Yakubu Magaji, adopted his witness statement on oath on 16th July 2025 and was cross-examined by the Plaintiff's Counsel on the same date. DW2 informed this Honourable Court that Kaida - Sabo village is not the same as Dawaki village, but they are, however, close to each other. Still under cross-examination, he stated that he was not a kingmaker or a prince of Dawaki village. He further stated that he was not among those who arranged the rotation of the kings or chieftaincy in Dawaki. He also clarified that he was not among the founders of Dawaki village. Additionally, under cross-examination, he confirmed that he was not part of the families of the 1st Plaintiff and the Defendant who migrated to Dawaki village.

Still under cross-examination, DW2 informed this Honourable Court that he is not a member of any ruling house that decides or chooses the Ward Head or village head of Dawaki village. DW2 further informed the Court that he is Gbari by tribe and not a member of the Shekada family. He also stated that he knows the 1st Plaintiff's father and is aware that the 2nd Plaintiff upholds the traditions and customs of Dawaki village.

At the conclusion of the evidence, the parties were instructed to file their final written addresses. A. Y Zubairu Esq. filed the Defendant's written address dated 31st July, 2025, on 1st August, 2025. After being served with the Plaintiffs' final address, the Defendant also filed a reply on point of law dated 24th November, 2025, on 1st December, 2025. The Defendant's Counsel adopted his final address and reply on the point of law on 12th February, 2026. The Defendant's Counsel presented two issues for the determination of this Honourable Court, to wit –

- 1. Whether the Court has jurisdiction to entertain this suit, having been commenced without compliance with a condition precedent.**
- 2. Whether by the state of pleadings and evidence before the Court, the Plaintiffs are entitled to the reliefs sought.**

On issue one – whether the Court has jurisdiction to entertain this suit, having been commenced without compliance with a condition precedent, learned counsel to the Defendant submitted that this Honourable Court lacks the jurisdiction to entertain the suit because it was commenced without compliance with the provision of **Section 1(2) of the Chiefs Appointment and Deposition) (Federal Capital Territory) Decree 1997.**

Learned Counsel to the Defendant, still proffering argument in favour of issue one, posited that an objection challenging the competence of an action or jurisdiction of the Court, be it trial or appellate, is most fundamental and could be raised at any stage or time by the parties or even suo moto by the court itself and referred this Honourable Court to the case of **Dada v. Sikuade 2014) 17 NWLR(Pt. 1435) 72 CA, ratio 5.**

Learned counsel to the Defendant argued that the suit did not come before the Court by due process of the law, for failing to comply with the condition precedent as provided under **Section 1 (2) of the Chiefs (Appointment and Deposition), (Federal Capital Territory) Decree 1997.** Learned counsel further submitted that by virtue of **Section 3(3) of the Chiefs Appointment and Deposition Law, Cap C9 Laws of Kwara State 2006**, which is pari material with Section 1(2) of the Chiefs Appointment and Deposition, Federal Capital Territory, Decree 1997. Learned Counsel referred this Honourable Court to the case of **Bukoye v. Adeyemo (2017) 1NWLR (Pt.1546) 173 SC ratio 9.** Learned Counsel to the Defendant submitted that the plaintiffs, having failed to take the dispute to the FCT Minister for his decision before commencing this suit, make it incompetent due to the non – compliance with the condition precedent.

Learned counsel to the Defendant, still arguing in favour of issue one, posited that where a statute provides for a specific precondition for the doing of something or performing a duty, that mode/module and no other, must be the one to be adopted and he referred this Honourable Court to the case of **Plateau Const. Ltd v. Aware (2014) 6 NWLR (Pt 1404) 519 C.A, ratio 22.**

Still arguing on issue one, learned counsel to the Defendant finally submitted that by the combined provision of **Section 2 (1)(a) and 14 of the Chiefs (Appointment and Deposition) FCT Decree, 1997**, the holder of the office of the Ward Head of Yegundna (Dawaki) village is a Chief whose office originates from native law and Custom of Yegundna (Dawaki) village and to which **Section 1(2) of the Decree** applies.

On issue two, whether by the state of pleadings and evidence before the Court, the Plaintiffs are entitled to the reliefs sought, learned counsel for the Defendant submitted that, based on the state of pleadings and evidence before this Honourable court, the Plaintiffs are not entitled to the reliefs sought. This is because the main reliefs sought by the Plaintiffs are declaratory reliefs, which place the burden of proof on the Plaintiffs. They are required to prove their case through the strength of their evidence without relying on the evidence called by the Defendant or even admissions by the Defendant. Learned counsel for the Defendant referred this Honourable Court to the cases of **Nduul v. Wayo (2018) 16 NWLR (pt. 1646) 548 SC at ratio 11** and **Oni v. Gov. Ekiti State (2019) 5 NWLR (pt.1664) 1 SC. at ratio 14.**

Learned Counsel for the Defendant argued that in this case, reliefs (i - v) of the Plaintiffs' Claim are the main reliefs, while reliefs (vi - ix) are ancillary to the main ones, which are declaratory reliefs. Consequently, the burden is on the Plaintiffs to prove to the court that they are entitled to the reliefs sought. Learned counsel further submitted that the Plaintiffs, in their pleadings and evidence before this Honourable court, have failed to prove by cogent, credible, and reliable evidence when and how Konge Shawo

became the first traditional ruler - Ward Head of Yegundna (Dawaki) Village, and the periods during which the head of the Dakuchi family was turbaned and ruled. Learned Counsel to the Defendant posited that parties seeking declaratory relief before a court must establish their alleged entitlement to the satisfaction of the court. Learned Counsel to the Defendant argued that declaratory relief must be refused when the plaintiff fails to lead credible and convincing evidence before the court by providing sufficient material to justify entitlement to the relief. Learned Counsel referred this Honourable Court to the case of **Seamarine Int'l Ltd. v Ayetoro Bay Agency (2016) 4 NWLR (Pt. 1502) 313, ratio 8.**

While still presenting an argument for issue two, learned counsel for the Defendant argued that the burden of proof on the Plaintiffs to establish declaratory reliefs to the court's satisfaction is substantial, as such reliefs are not granted even if there is an admission by the defence, unless the plaintiff successfully proves their entitlement to the declaration with their own evidence. Counsel referred this Honourable Court to the case of **Dumez Nig. Ltd. v Nwakhoba (2008) 18 NWLR (Pt. 1119) 361, ratio 1.** Learned counsel for the Defendant further submitted that the onus on a party seeking declaratory relief is to establish their case by pleadings and evidence, citing the cases of **Faleke v. I.N.E.C (2016) 18 NWLR (Pt. 1543) 61 SC, at ratio 34, and Okereke v. Umahi (2016) 11 NWLR (Pt. 1524) 438 SC, at ratio 19.**

Learned Counsel for the Defendant further argued that the averments in **paragraphs 1, 5(a-f), 10(a-f), 13(a-c), and 18(a-g)** of the Defendant's

Statement of Defence, along with the evidence in support, were not challenged or contradicted by the Plaintiffs and should therefore be deemed as admitted. Learned Counsel for the Defendant contended that the evidence of PW1 and PW2 under cross-examination further confirmed that the Defendant's father was turbaned by the District Head of Dobi. He further argued that the evidence from both PW1 on 28th May 2024 and PW2 on 27th November 2024 under cross-examination also corroborated and affirmed that the Plaintiffs' family are Gbari by tribe, which has different customs and traditions from the Defendant's tribe (Bassa), and that nowhere have the two tribes ever rotated the Chieftaincy stool due to these customary differences.

Learned counsel to the Defendant further argued that, in accordance with the custom and tradition of the Defendant, Achiarege, who is the Defendant's father and the first and only Ward Head of Yegundna (Dawaki) Village after he was turbaned, observed the mandatory seven-day stay in the second Plaintiff's house. The evidence of PW1 and PW2 confirmed this position under cross-examination. Learned counsel to the Defendant submitted that any unchallenged evidence should be accepted, and he referred this Honourable Court to the case of **Adejumo v. Ayantegbe (1989) 3 NLWR (Pt. 110) 417 ratio 19.**

Learned Counsel for the Defendant finally submitted that the claims of the Plaintiffs are speculative and should not be entertained by this Honourable Court. He referred this Court to the case of *Nworka v. Ononeze – Madu* (2019) 7 NWLR (Pt. 1672) 224, SC ratio 16, and urged this Honourable Court to dismiss the Plaintiffs' suit for lack of merit with substantial cost.

On his part, learned counsel to the Plaintiffs, C. I. Okoye Esq., after obtaining the leave of the Court to file his final address out of time, on the 12th day of February, 2026, through motion number **FCT/CCA/CVM/42/2025**, dated 14th November 2025 and filed on 18th November 2025, presented two issues for determination, to wit:

- 1. Whether the seat or office of Ward Head of Yegunda (Dawaki) Gwagwalada Area Council, Abuja is regulated or and caught up by the provision of Section 1 (2) of the Chieftaincy Appointment and Deposition Federal Capital Territory.**
- 2. Whether the Plaintiffs are entitled to the reliefs sought.**

On issue one - Whether the seat or office of Ward Head of Yegundna (Dawaki) Gwagwalada Area Council, Abuja is regulated or and caught up by the provision of Section 1 (2) of the Chieftaincy Appointment and Deposition Federal Capital Territory, learned counsel to the Plaintiffs argued that the Claims/Reliefs of the Plaintiffs, per the Amended Statement of Claims, set out in paragraph 2, is on the main seat/office of "Ward Head" Yegundna (Dawaki) Gwagwalada Area Council, Federal Capital Territory, Abuja and is the main subject matter that gives this Honourable Court jurisdiction to hear the suit. Counsel to the Plaintiffs referred this Honourable Court to the cases of **Zakirai v Mohammad (2017) 17 NWLR (Pt. 1594) 181 (SC)** and **Elelu-Habeeb v. A.-G, Fed. (2012) 13 NWLR (Pt. 1318) 423**.

Learned counsel to the plaintiffs contended that the provisions of **Section 1(2) of the Chiefs (Appointment and Deposition) (Federal Capital Territory) Decree, 1997** do not apply, nor regulate the succession of the "Ward Head" of Yegundna (Dawaki) Gwagwalada Area Council, Federal Capital Territory, Abuja and submitted that the Defendant misconceived the said provisions of the law. Learned counsel to the Plaintiffs, opposing the position of the Defendant, argued that the dispute in this suit is the seat/office of the ward Head, which is not within the contemplation of the Chief or traditional ruler in **Sections 3 and 14 of the Chiefs (Appointment and Deposition) (Federal Capital Territory), Decree**. Learned Counsel submitted that the seat in question is not graded and that it was not the FCT – Minster that made the appointment. Learned Counsel further submitted that Ward Head of Yegundna (Dawaki) Gwagwalada Area Council, Abuja, is not a chief within the meaning and letters of **Section 14 of the Chiefs (Appointment and Deposition) (Federal Capital Territory), Decree 1997**. Learned Counsel also referred this Honourable Court to the case of **Jubril v. Kolawole & Anor (1996) 5NWLR (Pt. 446) 34 at 44-45**.

Learned Counsel to the Plaintiffs further argued that although the Ward Head is a recognised leader in Yegundna (Dawaki) Gwagwalada Area Council, Abuja, he is not a Chief within the meaning and scope of **Section 14 of the Chiefs (Appointment and Deposition) (Federal Capital Territory) Decree, 1997**. Therefore, he cannot be subjected to the condition precedent specified under **Section 1(2) and 2(1)(a) of the Chiefs (Appointment and Deposition) Federal Capital Territory Decree, 1997**.

The learned counsel finally submitted on issue one that the Plaintiffs have
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not violated **Section 1(2) of the Chiefs (Appointment and Deposition), Federal Capital Territory, Decree, 1997** and urged this Honourable Court to so find and to resolve issue one in favour of the Plaintiffs.

One issue two – whether the Plaintiffs are entitled to the reliefs sought. Learned counsel for the Plaintiffs argued that PW1 and PW2 presented credible evidence to demonstrate that the Ward Head rotates between the Dakuchi and Shekada Ruling Houses, as required by law, based on the balance of probabilities. They relied on the case of **Torti v. Ukpabi & Ors (1984) LPELR – 3259 (SC)**. Furthermore, the Plaintiffs' counsel submitted that although the law dictates that a party seeking declarative relief must provide credible evidence to establish their entitlement, they may also rely on evidence presented by the Defendant. They cited the case of **Ndu v. Unudike Properties Ltd (2008) 10 NWLR (Pt. 1094) 24 at 29, Para. G (SC)**. The counsel argued that when the weaknesses of the Defendant's case bolster the Plaintiff's position, such evidence can be utilised to strengthen the case. They also noted that a declaratory relief can be granted even if the Defendant admits to certain facts, citing **Anyanru vs. Mandilas Ltd. (2007) 4 SCNJ 288** and **Akinboni & Ors. vs. Akintope & Ors. (2016) LPELR-40184 (CA) pages 25-26**.

Learned Counsel to the Plaintiffs, while still presenting arguments for issue two, further stated that a piece of evidence is credible when it is worthy of belief and referred this Honourable Court to the case of **Agbi v. Ogbeh (2006) 11 NWLR (Pt. 990) 1**. Learned counsel argued that although the

Plaintiffs are consistent in asserting that the Dakuchi ruling house and
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Shekada ruling houses exist, and that the Ward Head is rotational between the two ruling houses, the Defendant opposed this view and argued that only the Shekada ruling house exists. Learned Counsel also noted that both parties agree that the ruling house chooses the Ward Head for installation by the district head of Dobi and contended that it has not been contested in the pleadings or testimonies that the Defendant has not been appointed, turbaned, or recognised as the chief of Yegundna (Dawaki) Gwagwalada Area Council, Abuja. Counsel urged this Honourable Court to resolve the issue in favour of the Plaintiffs.

The Defendant's Counsel, in his reply on point of law to the Plaintiff's final written address, argued that the plaintiff's submission that **Section 1(2) of the Chiefs (Appointment and Deposition) (Federal Capital Territory) Decree, 1997** does not apply to this suit because the subject matter involves the Ward Head and not a chief, which does not fall within the provision of **Section 1** of the Law as it relates to the Ward Head, is misconceived. He submitted that this position should be disregarded by this Honourable Court and further argued that the cases of **Odofin & Ors v. Oguntola & 7 Ors (supra)** and **Jubril v. Kolawole (Supra)** are not applicable to this suit.

Learned Counsel to the Defendant, in his reply on point of law, further contended that, based on the combined provisions of **Section 2(1)(a) and 14 of the Chiefs (Appointment and Deposition) (Federal Capital Territory) Decree, 1997**, the holder of the office of the Ward Head of Yegundna (Dawaki) village is a Chief whose office originates from the native law and custom of the people and to which **Section 1(2) of the Decree** applies. He

argued that **Section 14** of the Decree defines “Chief” to include a person whose authority and control are recognised by a community, while **Section 2(1)(a)** makes **Section 1(2)** applicable to the office of a Chief that originates from native law and custom. He further submitted that the holder of the office of the Ward Head of Yegundna (Dawaki) village is a Chief and that **Section 1(2)(a)** of the Decree applies to this office since it originates from the native law and custom of the Yegundna (Dawaki) community. Additionally, learned Counsel to the Defendant argued that it is immaterial that the Honourable Minister of FCT was not involved in the appointment of the Defendant as Ward Head of Yegundna (Dawaki) Community. He submitted that the Plaintiff must comply with and exhaust the prescribed conditions before initiating a court action, and urged this Honourable Court to resolve issue one in favour of the Defendant.

In his response on the point of law regarding issue two, the Learned Counsel for the Defendant argued that the burden is on the plaintiff to show that he is entitled to the reliefs sought, and that the burden does not shift to the Defendant. He referred this Honourable Court to the case of **Orji v. D.T.M (Nig) Ltd (2009) 18 NWLR (Pt. 1173) 464 SC at ratio 13** and prayed that this Honourable Court resolve issue 2 in favour of the Defendant.

After a review of the submissions of the Plaintiffs’ and Defendant’s Counsel in this case, this Honourable Court formulates two issues for the determination of this suit, to wit -

- 1. Whether this Honourable Court has jurisdiction to entertain this suit, having been commenced without compliance with a condition precedent.**
- 2. Whether by the state of pleadings and evidence before the Court, the Plaintiffs are entitled to the reliefs sought.**

On issue one, whether this Honourable Court has jurisdiction to entertain this suit, having been commenced without compliance with a condition precedent. The question may be asked: What is a "CONDITION PRECEDENT?" The answer is not far-fetched

; When everything has happened which, prima facie, will vest in a party a certain right of action, or there is something further to be done, or something more must happen before a party is entitled to sue either by reason of provision of some statute or because the parties have expressly so agreed that something more is called "CONDITION PRECEDENT". See **Drexel Energy & Natural Resources Ltd & Ors V. Trans International Bank Ltd & Ors (2008) LPELR-962(SC)**. Condition precedent, simply put, as Mohammed JSC defined it in **Amadi V. NNPC (2000) LPELR - 445(SC) (PP. 55-56 PARAS. F)**, A condition precedent is defined as one which delays the vesting of a right until the happening of an event. See Per **OGBUAGU, JSC, in NIGER CARE DEVELOPMENT CO. LTD V. ADAMAWA STATE WATER BOARD & ORS (2008) LPELR-1997(SC) (PP. 18 PARAS. C)**. Where a condition precedent is mandatory for doing

an act, the failure to fulfil the pre-condition will render the act null and void. See **Nnaji & Anor V. Ndubuisi & Ors** (2023) LPELR-61131(SC).

The contention of the Defendant in this case lies squarely in the provision of **Section 1(2) of the Chiefs (Appointment and Deposition) Federal Capital Territory. Decree 1997**. According to the Defendant, going by this provision of the law, the Plaintiffs ought to have approached the Minister of the Federal Capital Territory for the settlement of the issue with the Defendant and that it is only after that step that he would have been permitted by law to approach this Honourable Court. For the avoidance of doubt, I shall reproduce the provision of **Section 1(2) of the Chiefs (Appointment and Deposition) Federal Capital Territory Decree, 1997**.

The Section provides thus:

In the case of any dispute as to succession, the Minister, after due inquiry and consultation with the person concerned in the selection of persons to the office of chief of traditional ruler, shall be deemed to be the sole judge as to whether any appointment of a chief or traditional ruler has been made in accordance with native law and custom.

The Learned counsel to the Defendant's counsel has also argued that, in line with **Section 14** of the same decree, the holder of the Ward Head of Yegundna (Dawaki) village is a Chief as defined under Section 14 of the Decree. The crux of the Plaintiffs' argument on the extreme end of the continuum is that the seat of the Ward Head is not within the

contemplation of the Chief or traditional ruler as seen under **Sections 3 and 14 of the Chiefs (Appointment and Deposition) Federal Capital Territory Decree, 1997**. **Section 3 of the Chief (Appointment and Deposition) (Federal Capital Territory) Decree, 1997**, which deals with the grading of Chiefs, provides thus:

The Minister shall have power to grade the office of the Chief or traditional ruler in the following order that is –

- a) First class**
- b) Second class**
- c) Third class**
- d) Fourth class**
- e) Fifth class**

according to the size and importance of such office.

There is no doubt from the wording of **Section 1 (2) of the Chiefs (Appointment and Deposition) (Federal Capital Territory) Decree, 1997**, that the provision sets a condition precedent to be fulfilled before parties can approach the law courts as envisaged under **Section 12** of the Decree, which deals with jurisdiction. The contention in this matter seems to be the nomenclature **“Ward Head”**, which is not captured under **Section 14** of the Decree, which is the interpretation section of the Decree. While amongst other things, the section defined **“Chief”** and **“Traditional Ruler”**, it does not define **“Ward Head”**.

Section 14 of the Decree defines a “Chief” “to include any person whose authority and control is recognised by a community and is appointed or graded in accordance with the provisions of this Decree or any other law

applicable in the Territory and a traditional ruler". The same Section defines "Traditional Ruler" as **a person who has been appointed by the Kingmakers' as such according to the custom applicable in the area and recognized accordingly".**

I could not help but notice, during cross-examination by the Plaintiffs' Counsel and the Defendant's Counsel, that the words/phrase "Chief", "Village Head", "Traditional Ruler", "Ward Head" and "King" were used interchangeably by the Learned counsel to the Defendant, Plaintiffs, PW1, PW2, DW1 and DW2. On 27th November, 2024, during cross-examination, Learned Counsel to the Defendant asked PW2 thus: **"can you confirm to the court that Zakari's father is the immediate past chief of Dawaki village?"**. PW2 answered thus: **Yes, Zakari's late father was the Chief of Dawaki village"**. In another instance, the Learned Counsel to the Defendant asked PW2 thus: **"will I be correct to say that the District Head of Dobi, was the one that turbaned the Chief of Dawaki village, yes or no"?**. PW2 answered thus: **yes, My lords.** Again, in one of the instances on the same day, the Court asked PW2 thus: **was your father a chief? PW2 responded thus: "Yes, my father was a king"**. On the same day, again in one of the instances during cross-examination, the learned Counsel to the Defendant asked PW2 thus: **in paragraph 20 of your witness statement on oath, you said, after the death of your father as the Chief/Traditional Ruler, the Community settled for the 2nd Plaintiff to become the chief?"**. On 28th Day of May, 2024, the learned counsel to the Defendant Counsel under cross examination asked PW1 thus: **"it is the district head of Dobi**

that install and turbaned the village head of Dawaki?”. PW1 responded thus: Yes.”

On the part of the Plaintiffs’ Counsel, on the 5th Day of June, 2025, during cross-examination, the Learned Counsel to the Plaintiffs asked DW1 thus: **“It is correct to say that the emergence of your father as the Ward Head after the 1st Plaintiff’s father’s death. DW1 responded thus : “Yes”. Still under Cross Examination, again, the Learned Counsel to the Plaintiffs asked thus: “ recall that you told the Court that your father Achiaarege became the Ward Head of Dawaki after the 1st Plaintiff’s father’s death, who was the Ward Head of Dawaki before the death of the 1st Plaintiff’s father’s death?” DW1 answered thus: My father was the 1st Chief of Dawaki Village and there was no chief before him”. Still under cross-examination on the same day, learned Counsel to the Plaintiffs asked thus: “You said your grandfather was the Chief of Dawaki. That means your father was not the village Head as at that time”. DW1 responded thus: “Shekada, the establisher of Dawaki was the village Head”.**

The concomitant effect of using these words interchangeably is that the Learned Counsel to both the Plaintiffs and the Defendant, and even the parties, seem not to be sure if there is any difference in the etymology of the use of these words. However, this Honourable Court cannot infer meaning from the words used by the parties and even the learned counsel to the Plaintiffs and the Defendant if they meant village head but decided to interchange the word for king, traditional ruler, or ward head. One thing is certain - the amended statement of claim of the Plaintiffs. A cursory look at the claims, which can be seen on pages 7 to 8, will show that the

Plaintiffs' claims are directed toward the Ward Head of Yegundna (Dawaki) village. Ordinarily, the concluding part of a statement of claim, otherwise called the "prayer" or the "relief sought," is where the plaintiff sets out the reliefs or remedies he claims in the action against the defendant. See **Stowe & Anor V. Benstowe & Anor (2012) LPELR-7838(SC)**.

The definition or interpretation section of a statute serves as the internal dictionary of that specific enactment. Its primary effect is to provide a precise meaning to words and phrases as they are intended to be understood within the four corners of that law. The overreaching objective of interpreting these sections is to discover the true intention of the legislature. See **Abdul V. Shekwolo & Ors (2022) LPELR-56682(CA)**, the object of interpretation is to discover the intention of the lawmaker, which is usually deduced from the language used in the statute. When a statute defines a word, that definition is binding on the court and the parties, overriding the word's ordinary or dictionary meaning unless the context strictly dictates otherwise.

It is apposite that I bring to the fore the core of the learned counsel's argument for the Plaintiff on issue one, which is squarely based on the Court of Appeal's decision in **Alhaji Aileru Jubril V. Alhaji Abdullahi Atanda Kolawole & Anor (1996) LPELR-14033(CA)**. I must state that the fact of that case, although similar to the case before this Honourable Court, is not applicable to this case. While in that case, the Appellant was challenging the appointment of the Respondent as the Bale of Gonmo, whose status is that of a village head of his community, the contention

before the court of Appeal was to ascertain whether or not a Bale being a village head is a chief within the provision of **Section 15 (1) of the Chiefs (Appointment & Deposition) Law of Kwara State** and would have warranted him to first deposit the sum of N10,000.00 as required by law before instituting an action in Court. The Court of Appeal held that the interpretation of the word chief does not include or deal with the appointment of a village head or Bale and that although a recognized leader in his community, is however not a chief under the Chiefs (Appointment & Deposition) Law of Kwara State and as such the Appellant was not required to comply with Section 15 (1) of the law by paying a non-refundable deposit of N10,000 before his action could be prosecuted.

Unlike the **Chiefs (Appointment and Deposition) (Federal Capital Territory) Decree 1997** which in its interpretation Section provides a broader definition of terms which also includes traditional rulers, the interpretation section of the **Chiefs (Appointment & Deposition) Law of Kwara State**, only provides for the definition of terms such as Chief, Chieftaincy, Governor, Ruling House, Kingmakers, Customary Law, Deposition and Appointment, and does not define traditional rulers which has a broader concept to cover village head and ward head. The **Chiefs (Appointment and Deposition) (Federal Capital Territory) Decree 1997**, in its interpretation Section, particularly Section 14, inter alia, has defined “Traditional Ruler,” as already contained in this judgment, in such a way that its broader meaning will also accommodate a village head or a ward head.

The absence of the phrase “Ward Head” under **Section 14 of the Chiefs (Appointment and Deposition) (Federal Capital Territory) Decree 1997** cannot be used by the Learned counsel to the Plaintiffs to set aside the application of **Section 1 (2) of the Decree**. If the phrase “Ward Head” does not fall within the meaning of “Chief” as seen under **Section 14**, it is clear that, from the definition of a traditional ruler as provided by the Decree, a “ward head” will also fall under the classification of a “traditional ruler”. This means the ward head of Yugundna (Dawaki) village is also a traditional ruler, as defined in **Section 14 of the Chiefs (Appointment and Deposition) (Federal Capital Territory) Decree 1997**. If the ward head of Yegundna (Dawaki) village is also a traditional ruler, as I have stated above, it means that before the plaintiffs approached this Honourable Court, they ought to have fulfilled the requirement placed by **Section 1(2) of the Chiefs (Appointment and Deposition) (Federal Capital Territory) Decree 1997** before approaching this Honourable Court.

Since the Plaintiffs did not comply with the condition precedent as set out in **Section 1(2) of the Chiefs (Appointment and Deposition) (Federal Capital Territory) Decree 1997**, they were wrong to have approached this Honourable Court to adjudicate on the matter, as this Honourable Court lacks the jurisdiction to do so due to the plaintiffs' failure to fulfil the condition precedent prescribed by **Section 1(2) of the Decree**. Consequently, I hereby resolve issue one in favour of the defendant.

Having decided issue one, which is on the jurisdiction of this Honourable Court, in favour of the Defendant, the contention is whether this court can

go ahead to decide issue two, having declined jurisdiction in issue one. Where a preliminary objection challenging the jurisdiction of the Court has been raised, the Court must determine the issue of jurisdiction before proceeding to determine the substantive suit. See **U.B.N. Plc V. Umeoduagu (2004) 13 NWLR Pt. 890 Pg. 352, Adeyemi Works Construction Ltd. V. Omolehin (2004) 6 NWLR Pt. 870 Pg. 650.**

The trial Court must after it determines the issue of jurisdiction, determine also the substantive issues brought before it. This helps oil the wheels of justice and reduces delays caused when appeals decided by the penultimate Court are remitted for retrial on the merits. See **Ode v. Uzo & Ors (2023) LPELR 60346 (SC)**. I shall now proceed to determine issue two before this Honourable court.

On issue two - Whether, by the state of pleadings and evidence before the Court, the Plaintiffs are entitled to the reliefs sought.

In civil matters, the Court decides the matter on the balance of probabilities or preponderance of evidence. The Court must put the evidence adduced by the Plaintiff on one side of the scale and that by the Defendant on the other side of the scale and weigh them together. The Court will see which is heavier, not by the number of witnesses called by each party, but by the quality or probative value of the testimony of those witnesses. See **Adebayo V Adusei (2004) 4 NWLR (PT.862) PG.44, Olusile V Maiduguri Metro Council (2004) 4 NWLR (PT.863) PG.290 and Fagbenro V Arobadi (2006) 7 NWLR (PT.978) PG.174**. A party is only entitled to judgment if a trial Court believes and accepts its evidence and if such evidence supports its case. See **Okunzuwa V. Osayogie (2018) LPELR-44535(CA)**.

It is also elementary that in a civil action, a plaintiff must lead credible and convincing evidence in order to entitle him to the reliefs that he approached the Court for, See **University of Jos v. Ikegwuoha (2013) All FWLR (Pt.707) 641 at 655 (SC)** and **Alhaji Aliyu Balogun V. Alhaji C. Labiran (1988) 3 NWLR (Pt.80) 67**. Therefore, the plaintiff has the duty to prove the averments in his pleadings because the averments are not synonymous with hard evidence, and no duty is cast on the defendant to disprove allegations that are not established by evidence by the plaintiff. See **Kate Enterprises Ltd V. Daewoo Nig Ltd (1985) 2 NWLR (Pt. 5) 116 (SC)**; **Nzeribe V. Dave Engineering (1994) 9 SCNJ 161 at 172**; **Alao V. Bamgbala (1995) 1 SCNJ 275 at 285**; **Egbunike v. ACB (1995) 2 SCNJ 58**; **Ibrahim V. Ojomo & Ors (2004) 4 NWLR (Pt. 862) 89**; **Abubakar & Anor V. Joseph & Anor (2008) 6 SCNJ 226**; **University of Jos v. Ikegwuoha (supra)**.

Now, a claim for declaratory relief is a request made to a Court to make some pronouncement as to the existence of a legal right or situation, and it is the duty of the claimant to lead cogent and credible evidence to the satisfaction and discretion of the Court in order to succeed. See **Dumez N.G. Lto V Peter Nwakhoba and Ors 2009 ALL FWLR (PT 461) PG 842 (SC)**. A Court does not grant a declaration of rights either in default or on admission without taking evidence and being satisfied that the evidence led is credible. See **CPC V INEC (2012) 13 NWLR (PT. 1317) 260 at 276**. In addition, the law is settled that declaratory reliefs are not granted by a Court on the basis of admission or weakness or even absence of a defence from the adverse party without evidence adduced to establish entitlement

to the reliefs by the party seeking them. Accordingly, it is essential for the party seeking a declaration to specifically state its interest and the facts on the basis of which it asserts that. See **Kure & Anor v. Abdulkarim (2025) LPELR – 81079 (CA)**.

On the 28th Day of May 2024, during the cross-examination of **PW1**, who is also the Second Plaintiff, learned counsel to the Defendant asked him thus: **“You are a Gbari by tribe”? PW1 answered thus: “Yes”** and further confirmed that the 1st Plaintiff, who is **PW2**, was from the same tribe as him when he was asked. **PW1** was further asked by the Learned Counsel to the Defendant thus: **“The Defendant is Bassa by Tribe”** **PW1** answered thus: **“Yes”**. Still under cross-examination, the Learned Counsel to the Defendant asked **PW1** thus: **“The Defendant’s father is the immediate past chief of Dawaki”** **PW1** answered thus: **“Yes”**. The Counsel to the Defendant asked further thus: **“it is the district head of Dobi that install and turbaned the village head of Dawaki?”** **PW1** answered thus: **“Yes”**. The learned Counsel to the Defendant went ahead again during cross-examination and asked **PW1** thus: **“There is no village in Gwagwalada Area council that rotates chieftaincy or traditional Stool amongst different tribes”**. **PW1** answered thus: **“Up till now, Gbagyi is the owner of that village and not Bassa. That is why we do not want to give it to Bassa again; now we want to collect what belongs to us”**. The Learned Counsel to the Defendant asked **PW1** further, thus: **“Is the district head of Dobi aware of this, your alleged rotational arrangement?”** **PW1** answered thus: **“It is none of our business with him”**.

During cross-examination on the 27th Day of November, 2024, of **PW2**, who is also the 1st Plaintiff, learned counsel to the Defendant asked **PW2** thus: **“Can you confirm to the Court that Zakari’s father (i.e., the Defendant’s father) is the immediate past chief of Dawaki village?”** **PW2** answered thus: **“yes, Zakari’s father was the Chief in Dawaki village”**. Learned Counsel to the Defendant further asked him thus: **“Can you confirm to this Honourable Court that Gbagi and Bassa have the same traditional values and Customs?”** **PW2** answered thus: **“They have different cultures”**. Still going further during cross-examination, learned counsel to the Defendant asked **PW2** further thus: **“Will I be correct to say that the district head of Dobi was the one who turbaned the Chief of Dawaki Village, yes or no?”** **Pw2** answered thus: **“Yes, my lords”**.

During cross-examination after **PW2** mentioned the neighbouring villages to Dawaki village, Kaida and Kwalita, the learned counsel for the Defendant asked **PW2** whether the two villages he listed rotate their chiefs between different tribes. He responded thus: **“We do not rotate Chiefs, My lords”**. The Learned counsel to the Defendant, still during cross-examination, asked **PW2** thus: **“All the traditional costumes are currently with the Defendant, is that true?”** **PW2** answered thus: **“Yes, he has them”**. Also, the learned Counsel to the Defendant asked **PW2** thus: **“Can you mention in Gwagwalada as a whole where Chieftaincy is rotated?”** **PW2** answered thus: **“I am talking about my village”** After this, the Honourable Court asked if he knew or not, and finally answered thus again: **“I only know of my village alone, My lords”**.

The highlighted sequence of the cross-examination of **PW1** (the Second Plaintiff) and **PW2** (the first Plaintiff) in this suit is crucial to the determination of this case, as it helps establish whether the plaintiffs have built a substantive case against the Defendant that justifies the reliefs sought before this Honourable Court. Based on the pleadings of the First and Second Plaintiffs and the background of the case, which I outlined at the beginning of this judgment, it is clear that the core argument of the Plaintiffs is that there are two ruling houses in Dawaki (Yegundna) village – the Dakuchi ruling house and the Shekada ruling house. According to the Plaintiffs, it is the turn of the Dakuchi ruling house to hold authority in the Dawaki (Yegundna) Village and in which case, the 1st Plaintiff should be the next ward head of the village.

During the cross-examination of the plaintiffs, this Honourable Court established the following facts: there are two tribes in Yegundna (Dawaki) village, namely Gbari and Bassa who have different traditional cultures; the Plaintiffs are Gbari by tribe, while the Defendant is Bassa by tribe; the Defendant's father was the immediate past chief of Dawaki village; it is the village head of Dobi that turbans the ward head of Yegundna (Dawaki) village; there is no village in Gwagwalada that rotates village heads amongst ruling houses (not even Kaida or Kwalita which are neighbouring villages to Dawaki), and all the traditional costumes of Yegundna (Dawaki) village are currently with the Defendant. The law is that facts can be elicited either through examination- in-chief or cross-examination, provided such facts are relevant. See **Gage V. Paye (2003) 8 NWLR (PART**

823) 583 at 603-604; Daggash V. Bulama (2004) 14 NWLR (PART 892) 144 and Oforlette V. State (2000) 7 SCNJ 162 at 169.

While PW2 stated during cross-examination that it is the district head of Dobi who installs and turban the village head of Dawaki, when he was again asked whether the District Head of Dobi was aware of the rotational arrangement they had, he answered that “it is none of our business with him”. Now, if the District Head of Dobi is responsible for installing and turbaning the Ward Head of Dawaki, why should he not be aware of the rotational arrangement? The response of PW1, which is also in line with the response of PW2, only creates doubt in his response to the question of the learned counsel to the Defendant, more so that cross-examination is to test the correctness of the testimony of the plaintiff and his witnesses. See **Okoro V. State (2012) LPELR-7846(SC)**. The District Head of Dobi, responsible for installing and turbaning the Ward Head of Dawaki, underscores the importance of his position in Dawaki's affairs.

PW2 during cross-examination confirmed to the Court that the Defendant's late father was the immediate past Chief of Dawaki village and further confirmed to this Honourable Court that all the traditional items, such as the knife, cap and shoes of the Dawaki traditional stool, were currently in possession of the Defendant. The 1st Plaintiff established that his late dad was a king, and at the time of his death, he was too young to assume the responsibilities imposed on him. During the cross-examination of the Defendant as DW1, he confirmed to this Honourable Court that his father, as the Ward Head of Dawaki, was appointed after the death of the Plaintiff's father. However, the evidence did not go further. It did not

establish a rotational arrangement between the two ruling houses of Shekada and Dakuchi. Contrary to the submission of the Learned counsel to the Plaintiffs, especially in paragraph 46 of his Plaintiffs' final address, that PW1 and PW2 laid credible evidence that the Ward Head rotates between the Dakuchi Ruling House and Shekada Ruling House, I cannot seem to see the credible evidence laid to show the existence of a rotational arrangement between the two houses.

The law is that, at the end of a trial, where the Court finds that the plaintiff has failed to prove his claim, the appropriate order the Court ought to make is one dismissing the case. See **Efetiroroje V Okpalefe II** (1991) 5 NWLR, PT. 193, 517. It is the law that, notwithstanding the absence of the case of the Defendant, a Plaintiff must lead credible evidence sufficient to establish his claims, even if it be on minimal proof. When, therefore, a Plaintiff fails to make out at least a prima facie case of his claims against a Defendant, the mere absence of a case of defence alone would not result in a verdict in favour of the Plaintiff. This is so because, in law, if no prima facie case is made out by a Plaintiff against a Defendant, such a defendant need not prove anything in his defence. See **Jolayemi V. Olaoye (2004) 12 NWLR (Pt. 887) 322**.

It is the primary duty of the plaintiffs to prove their claims on a balance of probability, and this they must do by leading credible and convincing evidence in order to entitle them to the reliefs that they approached the Court for, see **University of Jos v. Ikegwuoha (Supra); Alhaji Aliyu Balogun V. Alhaji C. Labiran (Supra)**. Therefore, the plaintiffs have the duty to prove the averments in their pleadings, because the averments are

not synonymous with hard evidence, and no duty is cast on the defendant to disprove allegations not established by the plaintiffs' evidence. See **Kate Enterprises Ltd V. Daewoo Nig Ltd (Supra)**, **Nzeribe V. Dave Engineering (Supra)**, **Alao V. Bamgbala (Supra)**, and **Egbunike v. ACB (Supra)**.

The plaintiffs in this case have not presented credible evidence that there are two ruling houses in Yegundna (Dawaki) Village or that a rotational arrangement exists between the Shekada and Dakuchi ruling houses of Yegundna (Dawaki) Village. As a result, I find no merit in the plaintiffs' claims. Therefore, issue two is hereby resolved in favour of the defendant and against the plaintiffs. Overall, issues one and two are hereby decided in favour of the Defendant. The plaintiffs' case is hereby dismissed for lack of merit.

SGD

HON. JUSTICE YUNUSA IDRIS KUTIGI

JCCA

APPEARANCES.

- 1. Charles Ikenna Okoye Esq, C. C Adonu, Esq, Simon Daudu, Esq – Plaintiffs' Counsel**
- 2. A Y Zubairu, Esq, N. M Laya, Esq – Defendant's Counsel.**

I have read the draft of the judgment just delivered by my Lord, **Y.I Kutigi, JCCA**. My Lord has covered the field on the facts, reliefs sought and the issues raised in this matter.

I agree with my lord on treatment of issues 1 and 2 raised. By the pleadings and the evidence led at hearing of this matter, the stool in contest is the succession to the Ward Head of Yegundna (Dawaki) Village, a ward under Dobi District Gwagwalada Area Council FCT, Abuja, The ward head or village, as used interchangeably, by the parties in this matter, is the lowest tier of the recognised tradition leadership structure in Northern Nigeria, The structure is such that, Chiefdoms oversee Districts, Villages and Wards under them. A Plaintiff who lays Claim to a stool has a burden to plead and lead evidence to establish his entitlement. See **AROWOLO VS OLOWO OKERE (2011) 48 NSCQR 66 at 89 -90**. Like any other civil matter, the plaintiff can only succeed only on the strength of his case and not on the weakness of the defence.

From the evidence led, Ward head and Village head have been used interchangeably, what is clear, on a balance of probability, Dawaki Village or Ward is under Dobi District, Gwagwalada Area Council, FCT, Abuja. The District Head of Dobi is the Turbaning Authority of the stool in issue and also oversee the Villages or Wards in the District. This Court is entitled to take note of this as a matter of public knowledge. The District Head was not called in this matter whose evidence would have been authoritative in this matter.

Declarative reliefs on a claim to a stool are not granted as a matter course but on evidence. **SEE OKEREKE VS UMAHI (2016) II NWLR (PART 1524) 438**.

On the exhaustive treatment of the issues raised in this matter by my lord in the leading Judgment, I too hereby dismiss the Plaintiffs claim.

SGD
HON. JUSTICE ISTIFANUS GANDU
JCCA

I had the privilege of reading the draft Judgment delivered by my Learned Brother Hon. Justice Yunusa Idris Kutigi (JCCA). I adopt Issue No. 1 as raised by the Defendant's Counsel to wit:

“Whether the Court has Jurisdiction to entertain this Suit, having been commenced without compliance with a Condition Precedent.” It is trite that when the issue of jurisdiction is raised in any matter for adjudication before the Court, the Court is duty bound to foremost resolve the issue of jurisdiction before hearing the matter on the merits. See the case of **AFRO CONTINENTAL (NIG.) LTD & ANOR VS. CO-OPERATIVE ASSOCIATION OF PROFESSIONALS INC (2003) LPELR-217(SC) (Pp. 14 paras. B).**

The nucleus of the Defendant's Counsel argument on Issue one (1) raised for determination by this Honourable Court is whether the **“Ward Head”** in the instant case can be categorised as a **“Chief”** within the contemplation of **Section 14 of the CHIEFS (APPOINTMENT AND DEPOSITION) (FEDERAL CAPITAL TERRITORY) DECREE**. And if so, whether the non-compliance with the provisions of Section 1(2) of the Decree deprives this Honourable Court jurisdiction to hear and determine this Suit.

I have gone through the said Law and not seem to see where a Ward Head is mentioned in the Classes of Chief and while a Ward Head cannot be said to fall under the definition of a Chief under the Decree, the Decree applies to both Chiefs and Traditional Rulers and Section 14 of the Decree defines a Traditional Ruler as **“a person who has been appointed by the Kingmakers as such according to the custom applicable in the area and recognised accordingly.”** It has been established in this case that the occupant of the office of the “Ward Head” is appointed by the **“king makers”**. The Ward Head therefore is a Traditional Ruler within the contemplation of the Decree.

It is therefore my view that the Plaintiff ought to have first approached the Minister in compliance with the provision of the said Decree before approaching this Honourable Court to seek redress.

Having failed to adhere with the condition precedent as provided by the Decree, this Honourable Court lacks jurisdiction to hear and determine this Suit. The law is settled that where the Court lacks jurisdiction to hear and determine a matter, the appropriate order to make is to strike out the Suit for want of jurisdiction. See the case of **EHUWA VS. ONDO STATE INDEPENDENT ELECTORAL COMMISSION & ORS (2006) LPELR-1056(SC) (Pp. 41 paras. D).**

I am persuaded to agree with my Learned brother that the Plaintiff's case lacks merit and it is accordingly struck out for want of jurisdiction and I SO HOLD.

SGD
HON. JUSTICE UNWANA SAM UBOM
(JCCA)

I have the privilege and the opportunity in reading in advance the Judgment just delivered by my Lord **Hon. JUSTICE YUNUSA IDRIS KUTIGI (JCCA)** thoroughly and I entirely agree with the finding and the conclusion reached. The facts and issues have extensively been dealt with in the lead Judgment.

In the instant case, issues one for determination formulated by this Honourable Court. The Court lacks Jurisdiction to adjudicate this case, because the Plaintiffs failed, refused or neglected to comply with the condition precedent as set out in **Section 1(2) of the Chiefs (Appointment and Deposition) (Federal Capital Territory) Decree 1997**. "The effect of failure to comply with a condition precedent is that the Court lacks jurisdiction. See **UGWUANYI v. NICON INSURANCE PLC (2013) LPELR-20092(SC)**.

It is quite clear from a long line of authorities that where there is a condition precedent or procedural step to be taken before the hearing of a case, failure to comply with the condition precedent is a fundamental defect which robs the Court of jurisdiction to entertain the suit. See **AUL-2-KALA GLOBAL**

**RESOURCES LIMITED & ORS v. SURUFAD PETROLEUM LIMITED
(2021) LPELR-56826(CA)**

Thus, Jurisdiction defines the power of Courts to inquire into facts, apply the law, make decisions and declare judgment. It is the legal right by which Judges exercise their authority. See the case of **YAKUBU TELLA & ANOR v. MR. ENOCK B. DANIEL (2013) LPELR-22620(CA)**

On issue two, It is the duty of the Plaintiffs to prove their claims on a balance of probability by leading credible and convincing evidence in order to seek their reliefs.

The Court held that in civil cases the duty is at all times on the Plaintiff to prove his case. He cannot assume he is entitled to automatic judgment because the other party had not adduced evidence before the trial Court." See **ALOYSIUS OBUTE v. ADEBAYO DAUDA ABDULKAREEM (2014) LPELR-23971(CA)**

However, in respect of this case at hand, I therefore concurs with the lead Judgment, delivered by My Lord and adopt the same as mine that issue one and two for determination before this Honourable Court are hereby resolved in favour of the Defendant. The Plaintiff's case is hereby dismissed for lack of merit.

SGD

**HON. JUSTICE MOHAMMED BOYI MARAFA
(JCCA)**

