

IN THE SUPREME COURT OF NIGERIA
HOLDEN AT ABUJA
ON FRIDAY, THE 4TH DAY OF APRIL, 2025
BEFORE THEIR LORDSHIPS

JOHN INYANG OKORO
HELEN MORONKEJI OGUNWUMIJU
TIJJANI ABUBAKAR
HARUNA SIMON TSAMMANI
MOHAMMED BABA IDRIS

JUSTICE, SUPREME COURT
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JUSTICE, SUPREME COURT
JUSTICE, SUPREME COURT
JUSTICE, SUPREME COURT

SC/CV/56/2025

BETWEEN:-

- | | | |
|---|---|------------|
| 1. SEN. ESTHER NENADI USMAN
(Labour Party National Caretaker
Committee Chairman) | } | APPELLANTS |
| 2. HON. DARLINGTON NWOKOCHA
(Labour Party National Caretaker
Committee Secretary) | } | |

AND

- | | | |
|---|---|-------------|
| 1. LABOUR PARTY | } | RESPONDENTS |
| 2. INDEPENDENT NATIONAL
ELECTORAL COMMISSION | } | |

JUDGMENT

(Delivered by **JOHN INYANG OKORO, JSC**)

This appeal is against the judgment of the Court of
Appeal, holden at Abuja in Appeal No.

CA/ABJ/CV/1217/2024 delivered on 17th January, 2025 against the judgment of the Federal High Court in suit No: FHC/ABJ/CS/1271/2024 commenced by the 1st Respondent at the trial court wherein the suit at the trial court was struck out for want of jurisdiction.

A summary of the facts leading to this appeal, as deducible from the record of appeal are that preparatory to the conduct of the gubernatorial elections in Ondo State which held on 16th November, 2024 the 2nd Respondent issued a "Notice of Refresher Training for upload of Political Party Agents for Ondo State Governorship Election" to the National Chairman of all the political parties in the contest except the 1st Respondent. The said notices were issued on 16th August, 2024 while the training subsequent to the notices was conducted on 20th August, 2024 at the National Headquarters of the 2nd Respondent whereat access code for upload of list and particulars of political party agents unto

the 2nd Respondent's portal was given to the trainees/attendees excluding the 1st Respondent's IT staff.

The 1st Respondent, as plaintiff commenced this action by way of originating summons on 29th August, 2024 wherein it sought from the trial court the determination of the following questions:-

- (1) Whether by the combined interpretation of sections 251(1)(r), 285(14)(c) of the 1999 Constitution of the Federal Republic of Nigeria (as amended) and section 43 of the Electoral Act, 2022 the plaintiff is entitled to be issued the Notice of the Refresher Training for upload of Political Party agents unto the Independent National Electoral Commission (INEC) Portal for Ondo State Governorship Election scheduled to hold on the 16th November, 2024 by the Defendant.***
- (2) Whether by the combined interpretation of section 251(1)(r), 285(14)(c) of the 1999 Constitution of the Federal Republic of Nigeria (as amended) and section 43 of the Electoral Act, 2022, the Defendant is obligated to issue the Notice of the Refresher Training for upload of Political Party Agents unto the Independent National Electoral Commission (INEC) Portal for Ondo State Governorship Election***

scheduled to hold on the 16th November, 2024 to the plaintiff.

- (3) Whether the failure of the Defendant to issue the plaintiff with Notice of Refresher Training for the upload of Political Party Agents unto its Portal is unlawful and contravenes section 43(1) of the Electoral Act, 2022 and Clause 9(a), (b) and (c) of the regulations and Guidelines for the conduct of Elections, 2022.*
- (4) Whether in the circumstances of the answers to the above questions being in favour of the plaintiff, the defendant ought to perform its lawful duty of conducting a Refresher training for upload of the Labour Party's Agents and to issue the plaintiff the access code required for uploading the Agents' name unto the Independent National Electoral Commission (INEC) Portal for the Ondo State Governorship Election scheduled to hold on the 16th November, 2024.*

Wherefore the 1st Respondent sought the following reliefs:-

- 1. A DECLARATION that by the combined interpretation of section 251(1)(r), 285(14)(c) of the 1999 Constitution of the Federal Republic of Nigeria (as amended) and section 43 of the Electoral Act, 2022, the plaintiff is entitled to be issued the Notice of the Refresher Training for upload of Political Party*

Agents unto the Independent National Electoral Commission (INEC) Portal for Ondo State Governorship Election scheduled to hold on the 16th November, 2024 by the Defendant.

2. *A DECLARATION that by the combined interpretation of section 251(1)(r), (285)(14)(c) of the 1999 Constitution of the Federal Republic of Nigeria (as amended) and section 43 of the Electoral Act, 2022 the Defendant is obligated to issue the Notice of the Refresher Training for upload of Political Party Agents unto the Independent National Electoral Commission (INEC) Portal for Ondo State Governorship Election scheduled to hold on the 16th November, 2024 to the plaintiff.*
3. *A DECLARATION that the failure of the Defendant to issue the plaintiff with Notice of Refresher Training for the upload of Political Party Agents unto its Portal is unlawful and contravenes section 43(1) of the Electoral Act, 2022 and Clause 9(a), (b), (c) of the Regulations and Guidelines for the conduct of elections, 2022.*
4. *AN ORDER OF THIS HONOURABLE COURT THAT in the circumstances that the answers to the above questions being in the plaintiff's favour, the Defendant ought to perform its lawful duty by conducting a Refresher Training for the upload of the Labour Party's Agent unto the Independent National*

Electoral Commission (INEC) Portal and to issue the plaintiff the Access Code required to access the Defendant's Portal for the Ondo State Governorship Election scheduled to hold on the 16th November, 2024.

- 5. AN ORDER compelling the Defendant to accord the plaintiff's political party under the leadership of Barr. Julius Abure all the rights and privileges accorded a political party duly registered in Nigeria.***
- 6. FIVE MILLION NAIRA (5,000,000.00) as cost of action.***
- 7. AND FOR SUCH FURTHER OR OTHER ORDERS as the court may deem fit to make in the circumstances of this case.***

The Appellants were joined as parties to the action vide their application for joinder filed on 9th September, 2024. In its judgment delivered on 8th October, 2024 the trial court granted the 1st Respondent's reliefs 1 to 5 in the originating summons. Indeed, the learned trial Judge held on page 793 of the record as follows:-

“I HEREBY MAKE AN ORDER compelling the 1st defendant to accord the plaintiff’s political party under the leadership of Barr. Julius Abure, all the rights and privileges accorded a political party duly registered in Nigeria”, which said pronouncement, triggered these Appellants appeal to the Court of Appeal.

In its judgment delivered on 17th January, 2025 the learned Justices at the court below struck out the suit of this 1st Respondent as commenced at the trial court for want of jurisdiction, howbeit, not before affirming Barr. Julius Abure as the National Chairman of the party, hence this further and final appeal by the Appellants.

My Lords, before I proceed, I need to say that the 1st Respondent herein filed a cross-appeal to the said judgment of the lower court in Appeal No: SC/CV/56A/2025. Both appeals were heard together, thus for want of time, that

cross-appeal shall abide the decision in this appeal since both emanated from the same judgment of the lower court.

The Appellants notice of appeal containing 3 grounds of appeal was filed on 21st January, 2025 out of which learned counsel for the Appellants, Nkemakolam Okoro, Esq in the Appellants' brief of argument filed on 11th February, 2025 distilled 3 issues for determination as follows:-

1. ***Having determined that the substantive claim/relief in this suit is the subject of leadership of the 1st Respondent (labour party) over which a court has no jurisdiction same not being justiciable, was the court below entitled to make any pronouncement and thereby anoint/affirm "Barr. Julius Abure as the National Leadership of the Labour Party". (Distilled from Ground 1)***
2. ***Whether the decision/ratio decidendi in Appeal No. CA/ABJ/CV/1172/2024 Labour Party v Olusola Ebiseni & ors determined the subject of leadership (National Chairman) of Labour Party as erroneously affirmed by the court below in its judgment in the instant appeal. (Distilled from Ground 2)***

3. ***Whether the determination of the court below that “the thrust of the instant suit” that is to say the substantive issue in this suit is the subject of the National Leadership of the 1st Respondent, the issues arising from reliefs 1 to 4 in the originating summons which are ancillary claims ought to be countenanced and or relied upon in determining the jurisdiction of the court to entertain this suit. (Distilled from Ground 3)***

On the part of the 1st Respondent, Peters I. Oyewole, Esq of counsel, settled the 1st Respondent's brief of argument filed on 25/2/2025 wherein learned counsel incorporated a preliminary objection and nominated a sole issue for determination of the appeal as follows:-

“Whether having regard to the circumstances of this appeal, the Appellants have made a case for this appeal to be determined in their favour.”

For the 2nd Respondent, Ibrahim G. Waru, Esq, of counsel equally nominated a sole issue for determination in

the 2nd Respondent's brief of argument filed on 14th February, 2025. The said issue reads:-

“Was the court below right to have anointed and affirmed Barrister Julius Abure as the National Chairman of the Labour Party after it has declared the issue in controversy as non – justiciable being leadership tussle an internal wrangling of a political party which court lack jurisdiction to entertain? (Distilled from ground 1, 2 and 3 of the Notice of Appeal filed on the 21st day of January, 2025)

Before he argued the sole issue formulated for determination in the 1st Respondent's brief of argument, learned counsel for the 1st Respondent argued its preliminary objection challenging the competence of the appeal in its entirety on the grounds that:-

(a) By virtue of paragraph 5 of the Supreme Court Pre – Election and Election Appeals Practice Direction, 2023 the Appellant's Brief of Argument filed on 11th February, 2025 was filed outside the time allowed by the Practice Direction, the record of appeal having

been served on 28th January, 2025. Thus, the said Appellants' brief was incompetent.

- (b) Grounds 1, 2 and 3 of the Appellant's Notice of Appeal are grounds of mixed law and facts. That those grounds with their particulars having been argued without the requisite leave of court are incompetent.*
- (c) The entire appeal is against the mere opinion of the lower court by way of obiter dictum expressed on pages 907 to 914 of the printed record as an intermediate court to give this court its view in the event of an appeal. That the entire appeal is therefore incompetent for failure to challenge the ratio decidendi of the court below.*
- (d) Whereas Appellants' issue 2 in their Brief of Argument did not emanate from ground 2 of their Notice of Appeal, Ground 3 thereof the decision of the lower court neither did issue 3 distilled therefrom emanate from a valid ground of appeal. That grounds 2 and 3 in the notice of appeal and the issues distilled therefrom are incompetent and should be struck out.*

In support of its argument, the 1st Respondent cited the case of Mato v Hember & ors (2018) 5 NWLR

(pt. 1612) 258 at 281 – 282; Koko v Koko (2023) 13 NWLR (pt. 1901) 249 at 288; Wellington v PDP & ors (2023) 10 NWLR (pt. 1893) 455; Shanu & anor v Afribank Nigeria Plc (2002) 10 SCN 146 to mention but a few, in contending the Appellants appeal is incompetent and should be struck out in its entirety.

In response, learned counsel for the Appellants filed their reply brief of argument on 3rd March, 2025 wherein counsel placed reliance on the prior finding of the lower court on the issue to the effect that the cause of action is not governed strictly by section 285(1) of the Constitution to bring the case under the ambit of pre – election matters. That it is a final decision that is appealable pursuant to section 241(1)(a) of the 1999 Constitution, as amended. Counsel therefore contended that by the subsisting determination of the two lower courts, the suit is not a pre –

election matter but founded on section 251(1)(r) of the 1999 Constitution (as amended). That the 1st Respondent having not appealed that specific finding of the two lower courts, it remains binding and subsisting on the parties for the purpose of this appeal. On this argument, learned counsel commended to us the cases of *Eze v PDP (2019) 1 NWLR (pt. 1652) 1 at 18* and *Heritage Bank Ltd v Bentworth Fin (Nig) Ltd (2018) 9 NWLR (pt. 1625) 420 at 436*.

On the competence of grounds 1 – 3 of their notice of appeal, learned counsel contend that contrary to the 1st Respondent's postulation that those grounds are an invitation to this court to meddle into facts or evaluate finding of facts that was in the judgment of the lower court, thus making them grounds of mixed law and facts, that their complaint on those grounds bordered on the jurisdiction of

the court below. That the court below “acted in excess of its jurisdiction” when despite upholding that the subject matter of the suit was a leadership dispute of a political party which is not justiciable, it proceeded to pronounce Barr. Julius Abure as the leader of the party. On this score, learned counsel relied on the cases of *Lovleen Toys Industry Ltd. v Komolafe (2013) 14 NWLR (pt. 1375) 542* and *Nwaolisah v Nwabufor (2011) 14 NWLR (pt. 1268) 600* to submit that an issue of jurisdiction is a question of law and sufficient to sustain the appeal.

Furthermore, learned counsel argued that in so far as issue 2 in the Appellant’s brief of argument is a complaint on the point that the subject matter of appeal No. CA/ABJ/CV/117/2024 Labour Party v Ebiseni on which the lower court relied on to affirm Barr. Julius Abure as the

national chairman of Labour Party, was not on party leadership dispute. Thus, the complaint in ground 2 of the notice of appeal against the reference to that judgment by the court below is a ground of law and therefore competent.

On the whole, learned counsel urged this court to dismiss the 1st Respondent's notice of preliminary objection for lacking in merit and being a mere distraction.

It has been the age long practice of this court to prefatorily consider preliminary objections, where raised to the competence of the appeal, before venturing into the main appeal if need be. The reason being that a preliminary objection is a pre-emptive strike to the determination of the appeal. If it succeeds, it can prematurely put an end to the determination of the appeal and save the court's time from embarking on a futile journey of determining a defective

appeal. See *Efet v INEC (2011) LPELR – 8109 (SC)*; *Allanah v Kpolokwu (2012) 6 NWLR (pt. 1507) 1*; *Rabiu v Adebajo (2012) LPELR – 9709 (SC)*; *Abe v University of Ilorin (2013) 16 NWLR (pt. 1379) 183*; *APC v Umar (2019) 8 NWLR (pt. 1675) 564*.

That being said, a careful perusal of the grounds of the preliminary objection reveals an attack to the jurisdiction of the court to entertain the appeal mainly on the ground that the suit of the 1st Respondent at the trial court was a pre-election matter, therefore the Appellants brief of argument to this court fell short of the rules prescribed by the Practice Direction 2023 thus, incompetent.

My Lords, the first port of call would be to determine whether the originating summons filed by the 1st Respondent at the trial court was a pre-election matter

under the provision of section 285(14) of the 1999 Constitution of the Federal Republic of Nigeria (as amended) and whether the court had the jurisdiction to grant the reliefs sought therein.

Facts gleanable on the record of appeal shows that the 1st Respondent, as Plaintiff, made the argument that the suit is a pre-election matter for the first time at the trial court by way of reply on point of law to the Appellants application for joinder. In his judgment, Nwite, J of the Federal High Court, Abuja held on page 746 of the record as follows:-

“On the issue that this action is predicated on section 285(14)(c) of the 1999 Constitution of the Federal Republic of Nigeria as canvassed by the learned senior counsel for the Plaintiff. I intend to disagree with him and agree with the submission of the learned counsel of the party seeking to be joined that the action is predicated on both section 285(14)(c) and 251(1)(r)

of the 1999 constitution (as amended).

At the court below, the argument was again evoked, this time by way of preliminary objection to the Appellants notice of appeal, which the 1st Respondent contended was filed outside the fourteen (14) days stipulated by section 285 (11) of the 1999 constitution. In its decision on the issue, the court below found on pages 901-902 of the record that:

“The 1st Respondent has proceeded in its preliminary objection on the basis that its action is a pre-election matter. The 1st Respondent has however not been consistent in stating its case as a pre-election matter. In argument of its originating summons at page 719 of the Records of Appeal, it submitted that the action was brought specifically on section 285 (14) (a) and 251 (1) (2) of the 1999 constitution, as amended. In opposing the application for the joinder of the Appellants to the action at page 709 of the Record of Appeal, it argued that its action was one only predicated under section 285 (14) (c) of the 1999 constitution. The law is that a party

must be consistent in the presentation of his case. See Ajide Vs. Kelani (1985) LPELR-302 (SC) at 35 and Nyako Vs. Adamawa State House of Assembly (2016) LPELR-41822 (SC) at 70-72.

The 1st Respondent cannot keep shifting its position on the case as constituted.

However, the lower court in its judgment at page 746 of the records disagreed with the 1st Respondents contention that the action was predicated on section 285 (14) (c) of the 1999 constitution. It held that the action is predicated on both sections 285 (14) (c) and 251 (1) (r) of the 1999 constitution. The 1st Respondent did not appeal against this holding of the lower court. It therefore remains subsisting and binding. See Amale Vs. Sokoto State Government (supra) Shiddi Vs. Jimkuta (supra), Koko Vs. Koko (2023) LPELR 59773 (SC) at 18-19 and Jegede Vs. INEC (2021) LPELR-55481 (SC) at 195.

In view of this unchallenged finding, section 251 (1) stipulated that its provisions are applicable notwithstanding anything to the contrary contained in the constitution. It is a phrase which subjugates the stipulations of section 285 (II) and (14) of the constitution to the said section 251 (1)...The necessary implication is that an appeal against the decision of the lower court is not governed strictly by section 285 (II) of the constitution. It

is a final decision that is appealable pursuant to section 241 (1) (a) of the 1999 constitution, as amended. The Notice of Appeal was therefore filed within time and the appeal is competent”.

Now the question has again been raised whether the suit of the 1st Respondent was a pre-election matter where the rules are strictly applicable.

Pre-election matters are defined under section 285 (14) of the 1999 constitution as follows:

“(14)-for the purpose of this section, “pre-election matter” means any suit by-

(a)-an aspirant who complains that any of the provisions of the Electoral Act or any Act of the National Assembly regulating the conduct of primaries of political parties and the provisions of the guidelines of a political party for conduct of party primaries has not been complied with by a political party in respect of the selection or nomination of candidates for an election;

(b)-an aspirant challenging the actions decisions or activities of the independent National Electoral Commission in respect of

His participation in an election or who complains that the provisions of the Electoral Act or any Act of the National Assembly regulating Electoral Commission in respect of the selection or nomination of candidates and participation in an election; and

(C)-a political party challenging the actions, decisions or activities of the Independent National Electoral Commission disqualifying its candidate from participating in an election or a complaint that the provisions of the Electoral Act or any other applicable law has not been complied with by the Independent National Electoral Commission in respect of the nomination of candidates of political parties for an election, registration of voters and other activities of the commission in respect of preparation for an election”.

In this appeal, a calm look at the reliefs sought in the originating summons filed by the 1st Respondent reveals that reliefs 1-4 therein falls within the definition of pre-election matter in the last portion of section 285 (14) (C); -
“other activities of the commission in respect of

preparation for an election". Putting it differently, INEC's refusal to issue the 1st Respondent's IT staff with "***Notice of Refresher Training for upload of Political Party Agents***" in preparation of the Ondo State Governorship Election held on 16th November, 2024 falls within pre-election matter as defined under section 285 (14) (c) of the constitution.

This court has consistently held in a plethora of cases that pre-election matters are as defined under section 285 (14) of the constitution and nothing more. In ***PDP Vs. INEC & Ors. (2023) LPELR-60457 (SC)*** my learned brother, **Helen Moronkeji Ogunwumiju, JSC** observed as follows:

"While section 285 (14) (c) talks about how the political party can challenge the decision of INEC, it relates to any decision of INEC directly against the interest of that political party. It cannot be stretched to include the inactions/actions of

INEC in respect of nomination for an election by another political party..."

See also ***SDP & Anor. Vs. INEC & Ors. (2023) LPELR-5983 (SC); APC & Anor. Vs. INEC & Ors. (2023) LPELR-60098 (SC).***

From the foregoing, it goes without saying that the 1st Respondent's suit at the trial court was a pre-election matter which has its peculiar rules of litigation. The two lower courts were wrong to hold otherwise.

Nonetheless, the Appellants' quarrel which has evoked this unending appeal is with the decision of the court to recognize and pronounce Barrister Julius Abure as the National Chairman of the party as sought in relief 5 of the originating summons. This relief five (5) disclosed the tenor of leadership tussle within the 1st Respondent which begs the question whether the two lower courts had the

jurisdiction to entertain the suit as a whole or consider and pronounce on relief five (5), in particular, to wit; an order compelling Independent National Electoral Commission (INEC) to accord Labour Party under the leadership of Barrister Julius Abure, all the rights and privileges accorded a political party duly registered in Nigeria.

Having shown that the Appellants' appeal is rooted on the issue of jurisdiction which is fundamental and the legal authority that enables a court to adjudicate on a matter, I shall be guided by the three (3) issues distilled by the Appellants which are essentially the same and which sufficiently cover the lone issues formulated by each of the Respondents.

Learned counsel for the Appellant argued that the court below rightly under-scored that the main relief

claimed by the 1st Respondent is its relief number five (5) for an order that its leadership is under Barrister Julius Abure which is not justiciable and not within the jurisdiction of the court to decide the leadership of the 1st Respondent, but the court below went off tangent completely and contradicted its earlier position by inventing a jurisdiction to dictate the leadership of the 1st Respondent wherein it pronounced Barrister Julius Abure as the National Chairman of the 1st Respondent. In support of its argument learned counsel cited the case *of Ufomba Vs. INEC (2017) LPELR-42079 (SC) 46-48* to submit that the court below lacked the jurisdiction to adjudicate on the internal affairs of the 1st Respondent as it concerned the leadership dispute of the party.

Learned counsel argued that the decision of the court below on page 914 of the record which relied on its earlier decision in ***Appeal No.CA/ABJ/CV/1172/2024 Between Labour Party (LP) Vs. Chief Olusola Ebiseni & 2 Ors.*** to affirm Barrister Julius Abure as the National Chairman of the 1st Respondent is perverse and should be set aside. On this score, counsel cited the case of ***Atolagbe Vs. Shorun (1985) LPELR 592 (SC)*** for support in urging this court to strike out the suit of the 1st Respondent for want of jurisdiction. Learned counsel contend that the fact, circumstances and subject matter in the ***Ebiseni's case*** relied on by the court below was completely different from the issues in the instant appeal, as such, the court below had no legal justification to have relied on same to affirm Barrister Julius Abure as the National Chairman of the party.

In response, learned counsel for the 1st Respondent relied on the cases of *Ude Vs. Nwara (1993)2 NWLR (Pt.278)638* and *Anwayi & Ors. Vs. Shodeke & Ors. (2006) LPELR-502 (SC)* to argue that the Appellants having previously invited the lower court to take judicial notice of its earlier judgment in *Ebiseni's case* is estopped from complaining about the courts reference to that judgment when the judicial notice is against them.

Furthermore counsel argued that the case of *Ufomba Vs. INEC (supra)* relied on by the Appellants is not on all fours with the instant appeal, thus not applicable to this case. He contended that in *Ufomba's case* intra party affair was defined as "*a dispute between members of the party inter se, or between a member on the one hand and the party on the other*". That the instant suit is

distinguishable being purely between the 1st and 2nd Respondent and not between members of the 1st Respondent or a member of the 1st Respondent and the 1st Respondent. He argued that the Appellants were wrong to insist that the lower court enthroned Barrister Julius Abure as the National Chairman of the party when in fact Barrister Julius Abure was not made a party to the suit. Counsel placed reliance on the case of *Nospetco Oil & Gas Limited Vs. Olorunnimbe & Ors. (2022) 1 NWLR (Pt.1812) 495* to submit that the decision of the Court of Appeal in Appeal No.CA/ABJ/CV/1172/2024 (*Ebiseni's case*) is binding till set aside.

Finally learned counsel made submissions to the effect that a portion of the judgment of the lower court complained about, and quoted at paragraph 4.22 of the

Appellants brief was merely an obiter dictum. Counsel argued that the 1st Respondent's relief five (5) in the originating summons was only an ancillary relief which life blood was dependent on the success of reliefs one (1) - four (4). That its main reliefs were one (1)-four (4). Thus the entire appeal was premised on an *obiter dictum*. On this score, counsel cited the case of *APC Vs. Emwerem (2022)15 NWLR (Pt.1853)389* in urging the court to dismiss the appeal.

On the part of the 2nd Respondent, learned counsel submitted that the Court of Appeal was wrong to have affirmed Barrister Julius Abure as the National Chairman of the 1st Respondent after it had declared that the issue in controversy is non justiciable being a leadership tussle, an internal affair of a political party which is outside the

jurisdiction of the court. He referred to the cases of *Ufomba Vs. INEC (supra)*, *Agi Vs. PDP (2016) LPELR – 42578 (SC)*; *Obi INEC (2007) II NWLR (Pt.1046) 565* and *Lawal Vs. Chief Dawodu (1972) ALL NLR (Pt.2)270*.

Learned counsel further took support from the case of *Tukur Vs. Government of Gongola State (1989)4 NWLR (Pt.117)51* to argue that the 1st Respondent's issue five (5) in their originating summons which is the subject of this appeal was the main relief before the trial court. That the said relief being not justiciable, the court was wrong to adjudicate on the ancillary claims (reliefs 1-4) since it had no jurisdiction to entertain the main claim.

Learned counsel therefore urged this court to resolve the issue of jurisdiction in favour of the Appellants and allow the appeal.

The submissions in the Appellants' reply brief to the 1st Respondent's brief which amount to a re-hash of the Appellants' main brief are hereby discountenanced. On the whole, the Appellants urge this court to allow the appeal and set aside the part of the judgment appealed against.

As stated earlier in this judgment the issue in the main in this appeal border on the jurisdiction of the trial court to entertain the suit of the 1st Respondent which was predicated on the internal affair of the 1st Respondent and the decision of the court below to affirm the finding of the trial court on question of leadership of the 1st Respondent.

It is trite law that jurisdiction is a threshold issue and the lifeblood which enables the survival of an action in court. It is fundamental and without it the entire proceeding would amount to a nullity no matter how well conducted.

See *Obi Vs. INEC & Ors. (2007) LPELR-24347 (SC)*; *APC & Ors. Vs. Enugu State Independent Electoral Commission & Ors. (2021) LPELR-55337 (SC)*; *Oyekan & Ors. Vs. Aberuagba & Ors. (2023) LPELR-62196 (SC)*. In the case of *Utih Vs. Onoyivwe (1991) LPELR-3436 (SC)*, this court, per Bello, CJN, made a description of jurisdiction thus:

“Jurisdiction is blood that gives life to the survival of an action in a court of law and without jurisdiction, the action will be like an animal that has been drained of its blood. It will cease to have life and any attempt to resuscitate it without infusing blood into it would be an abortive exercise”.

The above eloquently describes the fundamental nature of jurisdiction.

The factors which must be present to cloth a court with jurisdiction were enumerated in the celebrated case of

Madukolu Vs. Nkemdilim (1962) LPELR-24023 (SC);

(1962) 1 All NLR 387 at 594 as follows:

“A court is competent when:

1. - It is properly constituted as regards the number and qualification of the members of the bench and no member is disqualified for one reason or another;

2.- The subject matter of the case is within its

jurisdiction; and there is no feature of the case

which prevents the court from exercising its jurisdiction;

3.- The case comes before the court initiated by due process of law, and upon fulfilment of any condition precedent to the exercise of jurisdiction. Any defect in competence is fatal, for the proceedings are a nullity however well conducted and decided: the defect is extrinsic to the adjudication”.

In this appeal, we are concerned with the second criteria also known as the subject matter jurisdiction.

It was the contention of these Appellants and even the 2nd Respondent in their respective counter- Affidavits to the suit of the 1st Respondent at the trial court that the substratum of the suit was the leadership tussle between Barrister Julius Abure led executives and these Appellants which said tussle is premised within the domestic affairs of the party and is therefore not justiciable. The learned trial judge agreed with them when he acknowledged on page 790 of the record as follows:

“in view of the foregoing, this court lack the jurisdiction to scrutinize the validity or otherwise of the plaintiff's leadership and the question of subsistence or otherwise of the tenure of the said leadership.”

Howbeit in a sudden summersault, the trial court on pages 791-793 held as follows:

“In view of the foregoing analysis, I am of the view and I so hold that the plaintiff has proved

his case on the preponderance of evidence before me. Consequently, I make the following orders:

1. xxx

2. xxx

3. xxx

4. xxx

5. I HEREBY MAKE AN ORDER compelling the 1st Defendant to accord the plaintiff's political party under the leadership of Barrister Julius Abure, all the rights and privileges accorded a political party duly registered in Nigeria".

On appeal to the Court of Appeal, that court on page 906 of the record observed as follows:

"My Lords a quick appraisal at the substance of the case before the lower court generating the instant appeal is with regards to the holding of the Gubernatorial Elections in Ondo State which elections were held on the 16th November, 2024. The complaint contained in the instant appeal is (sic) the circumstance is irredeemable as the act, the election to the Ondo State Governorship Election has since been concluded. What this means is that the consideration of the issues, as well as the determination thereof is of no moment, Otiose and academics in nature. Mind you, courts are enjoined to avoid academic exercises that renders no value to the

determination of the action. On this premise alone, this appeal qualified to be dismissed.

The court continued on pages 909-910 as follows:

“There is no doubt that learned counsel demonstrated remarkable ingenuity in framing the reliefs and inserting relief number five (5) as though it were an appendage and consequential relief; but when it is properly construed that the other reliefs one (1)-four (4) are in respect of matters that the 2nd Respondent is enjoined to do by statute, it cannot be contested that the main thrust of the action was for the 2nd Respondent to relate with Barrister Julius Abure as the National Leadership of the 1st Respondent in the discharge of the said statutory obligations. When the mask is removed, the bare bones of the action show that is in respect of the leadership of the 1st Respondent which is not justiciable and the court lacks jurisdiction to entertain the same. See Suleiman Vs. APC (2023)5 NWLR (Pt.1877)211, Ufomba Vs. INEC (2017)13 NWLR (Pt.1582), Kakih Vs. PDP (2014)15 NWLR (Pt.1430) 374 at 413 and PDP Vs. Ogundipe (2018) LPELR 43887.

The court went on to say:

“...The fact that the lower court devoted more than half of its opinion deciding the matter on resolving the question of the leadership of the 1st Respondent that the 2nd Respondent is to deal with makes it clear that the principal relief was the 1st Respondent’s relief number five (5) which is on the leadership of the 1st Respondent. It is a subject matter which resides in the internal affairs of a political party and which a court has no jurisdiction to entertain.

...Where a court does not have the jurisdiction to entertain the main relief claimed in an action, it will not have jurisdiction to entertain the entire action... In view of the foregoing, the issue number one (1) is resolved in favour of the Appellants. The lower court did not have the jurisdiction to entertain and adjudicate the suit. The proper order to make in the circumstance is to strike out the action for being incompetent”.

Notwithstanding the above keen observations of the lower court, it also summersaulted like the trial court when it stated on page 914 as follows:

“In view of the fact that the issue of leadership of a political party is not justiciable, and a court has no jurisdiction in that respect, whether the Appellants or the Barrister Abure led executive

constitute the leadership of the 1st Respondent is not for the court to decide in this action. That is the internal affair of the 1st Respondent. For clarity, the leadership of the 1st Respondent remains that prior to the filing of the suit before the lower court, and in the judgment of this court in suit No.CA/ABJ/CV/1172/2024, Between: Labour Party (LP) Vs. Chief Olusola Nehemiah Ebiseni & 2 Ors. Delivered on the 13th November, 2024 wherein one Barrister Julius Abure was admitted as the National Chairman still stands”.

My Lords, I agree with the observation of the learned justices at the court below that the cause of action which birth this appeal is otiose and should be struck out, the Ondo State Governorship Election having since been held and concluded. Howbeit, striking out the appeal on that ground without addressing the substance of this appeal, to wit; the jurisdiction of the court to adjudicate the matter and grant relief five (5) therein, would not resolve the issue in contention.

This court has consistently held in a long line of decided cases that disputes which border on the internal affairs of a political party such as the leadership tussle in this case, are not within the jurisdiction of the court. They are not justiciable. See *Onuoha Vs. Okafor* (1983)2 SCNLR 244; *Waziri Vs. PDP* (2023)7 NWLR (Pt.1882) 57; *Suleiman Vs. APC* (2023)5 NWLR (Pt.1877) 211; *Ufomba Vs. INEC* (2017)13 NWLR (Pt.1582) 175 and even the recently decided case in *SC/CV/18/2025 Senator Samuel N. Anyanwu Vs. Aniagu Emmanuel (Unreported)* delivered on 21/3/2025. The exception to this principle is the very narrow window created by the provision of section 84(14) of the Electoral Act, 2022 which vest original jurisdiction on the Federal High Court to adjudicate on matters pertaining the selection or nomination of candidate of a political party

for election. That provision of the Electoral Act reads: *Notwithstanding the provisions of this Act or rules of a political party, an aspirant who complains that any of the provisions of this Act and the guidelines of a political party have not been complied with in the selection or nomination of a candidate of a political party for election, may apply to the Federal High Court for redress:* That provision of the Act is only open to aspirants who were candidates in a primary election of his/her party. See *Shinkafi Vs. Yari (2016)7 NWLR (Pt.1511)340; Daniel Vs. INEC (2015)9 NWLR (Pt.1463)113; Eze Vs. PDP (2018) LPELR 44907 (SC).*

The reason for the non justiciability of internal disputes of a political party is simple, and that is that in the eyes of the law, a political party is a corporate entity with its

constitution, rules, regulations and guidelines which are binding on members who having joined freely have consented to be so bound. See *Abegunde Vs. Ondo State House of Assembly & Ors. (2015) LPELR-24588 (SC)*.

In the case of *Onuoha Vs. Okafor (1983)2 SCNLR 244 at 254* this court, per Obaseki, JSC aptly put it thus:

"A party is like a club. It has its own rules, regulation, guidelines and constitution. Members join the party on their own free will. By joining they have freely given their consent to be bound by the rules, regulations, guidelines and constitution of the party. These rules of the party must be obeyed by all members of the party, as the party's decision is final over its own affairs. Members of a party would do well to understand and appreciate the finality of a party's decision over its domestic or internal affairs. The court would only interfere where the party has violated its own rules".

See also *Agi Vs. PDP & Ors. (2016) LPELR-42578 (SC)*; *PDP & Anor. Vs. Lawal & Anor. (2022) LPELR-59169 (SC)*.

The above position was re-echoed by my learned brother, **Helen Moronkeji Ogunwumiju**, JSC in the case of **Waziri Vs. PDP & Anor. (supra)** when he said:

“Political parties have put in place diverse kinds of internal dispute resolution mechanisms to handle any matter arising from disputes among members. Political parties and their members should therefore have faith in the internal dispute resolution mechanisms prescribed in their party constitution. Having subscribed to the membership of a political party, a member of a political party has by his membership agreed to be bound by the constitution and the decision of the party contained in its guidelines. So the politician must comply with the provisions of the party constitution on how disputes over the internal affairs of the party can be resolved in keeping with the legal doctrine that the internal affairs of a political party are non-justiciable and therefore not subject to the judicial powers of the courts..”

I agree entirely with the above. Political parties must learn to adhere to their constitution and guidelines in the conduct of their domestic affairs. The court must not

have a say in every internal activities of a political party save where the national constitution or a statute expressly confers upon a court such jurisdiction or where the dispute is about commission of a crime or involves the violation of a contractual right or the commission of a tort. See ***PDP & Anor. Vs. Lawal & Anor. (supra); PDP Vs. Sylva (2012)3 NWLR (Pt.1316)85.***

I have stated earlier in this judgment that the learned trial judge, upon a careful review of the case of the 1st Respondent, including the exhibits attached thereto and perhaps the counter-affidavits of the respective defendants before him, came to the conclusion that the core of the case was the leadership dispute within the 1st Respondent which the court lacked the jurisdiction to scrutinize. He ought to have stopped there and struck out the suit. Going further to

make pronouncements, particularly on relief five (5) sought thereat, amounted to stealthily arrogating to himself jurisdiction to delve into the internal affairs of the 1st Respondent to pronounce Barrister Julius Abure as the National Chairman of the party. This ought not to have been done.

I have also scrupulously read the judgment in appeal No.CA/ABJ/CV/1172/2024: Labour Party (LP) Vs. Chief Olusola Nehemiah Ebiseni which the court below referenced in affirming Barrister Julius Abure as the National Chairman of the party. To my utter amazement I find that the subject matter of that appeal was on who-was the authentic candidate of labour party for Ondo State Governorship Election held on 16th November, 2024 between Chief Nehemiah Ebiseni and Dr. Olurunfemi Ayodele Festus. The

dispute was about whose name among the two contenders the Independent National Electoral Commission (INEC) should publish as the candidate of the party. The judgment of the trial court favoured Chief Ebiseni who emerged subsequent to a fresh election conducted on 18th July, 2024 following the alleged voluntary withdrawal of Dr. Ayodele while the judgment of the court below favoured Dr. Ayodele having found that he did not withdraw from the contest. There is no issue in that appeal where the leadership dispute of labour party was specifically put before the court for determination.

In the instant case, the court below having found that the 1st Respondent's main relief was relief number five (5) which was predicated on the leadership of the 1st Respondent and thus, not justiciable, strayed beyond its

jurisdiction into the realm where even angels dread to tread to pronounce Barrister Julius Abure as the National Chairman of the 1st Respondent. Their Lordships of the lower court were wrong to so do. The principle of law applicable here is as expressed in the latin maxim: *Nihil non-ecpectant aedificare store* meaning that "one cannot put something on nothing and expect it to stand". The 1st Respondent's suit at the trial court had no legs to stand in the circumstance and deserves to be struck out. See **Macfoy v. UAC (1962) AC 152 at 160.**

Permit me at this point to reiterate the trite position of the law that if a court is bereft of jurisdiction to entertain the main relief in an action, it will not have the jurisdiction to entertain the ancillary claim and moreso if the ancillary claim will inevitably involve a discussion of the main claim, as in this case. See *Tukur Vs. Government of Gongola State (supra)*.

The 3 issues submitted for determination are hereby jointly resolved in favour of the Appellants.

In summary, both the trial court and the court below had no jurisdiction to entertain the suit of this 1st Respondent which main relief, as they both rightly observed, was inserted as relief number five (5) as though it was an appendage. Consequent upon the foregoing, the decisions of both trial court and the court below recognizing Barrister Julius Abure as the National Chairman of the 1st Respondent are hereby set aside and suit No.FHC/ABJ/CS/1271/2024 is hereby struck out for want of jurisdiction.

In the same vein, the 1st Respondent's cross-appeal in Appeal No.SC/CV/56^A/2025 being an offshoot of the same judgment of the court below, is hereby dismissed.

Before I am done, may I admonish political parties and their members to endeavor to always allow their constitutions, rules, regulations and guidelines to guide them in choosing their officers as well as candidates. That way, incessant internal rifts which always find their way to court would be reduced. If the constitution of a political party has

prescribed duration for tenure of office of an officer, such officer should be humble enough to leave at the expiration of the tenure.

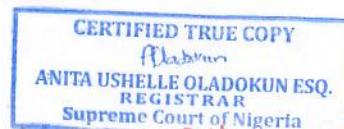
In the final analysis, I find this appeal to be meritorious and is hereby allowed. Parties shall bear their respective costs.

Appeal Allowed.



JOHN INYANG OKORO
JUSTICE, SUPREME COURT

APPEARANCES:



P.I.N Ikwueto, SAN with R. A. Lawal-Rabana, SAN, Prisca Udoka, SAN, Nkemakolam Okoro, Esq., Chioma Onyenucheya-Uko (Mrs.), Celestine Ezeokeke Esq. and Collins Ojay Esq. for the Appellants.

P. I. Onyewole Esq. with Kehinde Edun Esq., O. V. Akowei Esq. and V. A. Dibiah for 1st Respondent.

I. G. Waru Esq. for the 2nd Respondent.