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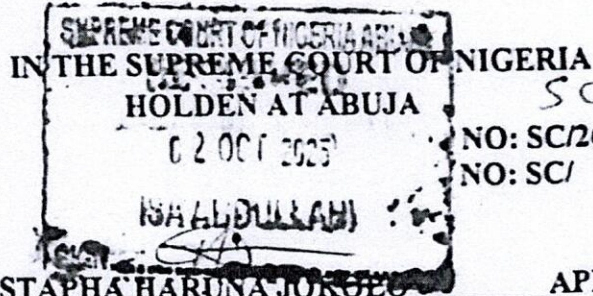

IN THE SUPREME COURT OF NIGERIA
HOLDEN AT ABUJA

SC.266/2017

NO: SC/266/2017
NO: SC/ /2025

BETWEEN:
ALHAJI ALMUSTAPHA HARUNA JOKOLO __________ APPLICANT
AND:

1. GOVERNOR OF KEBBI STATE
2. ATTORNEY GENERAL, KEBBI STATE
3. KEBBI STATE COUNCIL OF CHIEFS
4. GWANDU EMIRATE COUNCIL
5. ALH. ABDULLAHI UMAR *(Wazirin Gwandu)*
6. BARR. MUHAMMAD SAMBO ALIYU *(Magajin Rafin Gwandu)*
7. ALHAJI AMINULLAHI UMARU *(Magajin Gari)*
8. ALHAJI MUHAMMED WANKA *(Sarkin Illo)*
9. ALHAJI MAINASARA ZAGGA *(Sarkin Zagga)*
10. ALHAJI BUHARI MUHAMMAD *(Sarkin Aleiro)*
11. ALHAJI MUKHTAR ABDULLAHI *(Walin Gwandu)*
12. ALHAJI IBRAHIM BASHAR *(Galadima Babba)*
13. ALHAJI AMINU AHMED *(Sarkin Fada)*

RESPONDENTS

MOTION ON NOTICE

BROUGHT PURSUANT TO ORDER 20 RULE 4 OF THE SUPREME COURT RULES, 2024, SECTIONS 6(6)(B) AND 36(1) OF THE CONSTITUTION OF THE FEDERAL REPUBLIC OF NIGERIA, 1999 AND THE INHERENT POWERS OF THIS HONOURABLE COURT

TAKE NOTICE that this Honourable Court will be moved on the ....day of..........2025, at the hour of 9:00 o'clock in the forenoon or so soon thereafter as Counsel may be heard on behalf of the Applicant praying for the following:-

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1. **AN ORDER TO REVIEW AND SET ASIDE**, the decision of this Honourable Court delivered on 4th June, 2025 in suit *NO.SC/266/2017 (Governor of Kebbi State & 12 Ors v. Alhaji Al-Mustapha Haruna Jokolo & Anor)*, on grounds of fraudulent misrepresentation of law and violation of Constitutional provisions.
2. **AN ORDER OF THIS HONOURABLE COURT CONSTITUTING A PANEL TO HEAR AND DETERMINE ON MERIT**, Appeal No. *SC/266/2017 (Governor of Kebbi State & 12 Ors v. Alhaji Almustapha Haruna Jokolo & Anor).*
3. **AN ORDER** granting such further or other reliefs as this Honourable Court may deem fit to make in the circumstances of this case.

TAKE FURTHER NOTICE that the Applicant shall rely on the following **EXCEPTIONAL GROUNDS** recognised by this Honourable Court as falling within the established exceptions to the principle of finality of judgment of this Honourable Court.

1. **GROUND ONE**

THE JUDGMENT OF THIS HONOURABLE COURT IN SUIT NO: SC/266/2017(GOVERNOR OF KEBBI STATE & 12 ORS V. ALHAJI AL - MUSTAPHA HARUNA JOKOLO & ANOR) WAS PROCURED BY A FRAUD UPON THE COURT, STEMMING FROM THE RESPONDENTS' MISREPRESENTATION OF SECTION 4(3) OF THE CHIEFS (APPOINTMENT & DEPOSITION) LAW, CAP, 21, LAWS OF KEBBI STATE, 1996.

PARTICULARS OF MISREPRESENTATION:-

a. The Suit **No. SC/266/2017 (Governor of Kebbi State & 12 Ors v. Alhaji Al-Mustapha Haruna Jokolo & Anor)** was not decided on what the Law said, but on what Counsel misrepresented it to say, which amounts to a fraud on the Court.

b. The Judgment of this Honourable Court was materially influenced by a deliberate and extrinsic distortion of the law by the Respondents in Suit No. SC/266/2017, stemming from a calculated perversion of section 4(3)

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of the Chiefs (Appointment and Deposition) Law, Cap, 21, Laws of Kebbi State, 1996, by falsely asserting that it mandates a pre-action complaint to the 1st Respondent, the Governor of Kebbi State, before a deposition dispute may be brought before the Court.

c. The deliberate distortion of section 4(3) by the Respondents, has deprived the majority justices of the correct interpretation of the law and misled the Court into nullifying nineteen years of meritorious litigation solely on the erroneous premise that the Applicant was required to obtain the 1st Respondent's consent before instituting the suit.

d. The dissenting opinions of the minority Justices constitute not mere differences of view but explicit judicial findings that the Respondents misrepresented the law, and that the majority Justices relied on this falsehood in reaching its decision.

e. Such a material misstatement of law, whether deliberate or inadvertent, constitutes fraud on the Court, having induced it to deliver a decision it otherwise had no legal basis to reach.

2. <u>**GROUND TWO**</u>

SUBORDINATION OF JUSTICE TO "ABSURDITY" BY THIS HONOURABLE COURT RESULTING TO PER INCURIAM DECISION IN SUIT NO.SC/266/2017 - GOVERNOR OF KEBBI STATE & 12 ORS V. ALHAJI AL - MUSTAPHA HARUNA JOKOLO & ANOR.

<u>**PARTICULARS OF ABSURDITY RESULTING TO PER INCURIAM DECISION:**</u>

a. In the lead judgment delivered by His Lordship, Emmanuel Agim, JSC, it was expressly acknowledged that it is "absurd" to require a pre - action complaint to be directed to the very Governor who

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orchestrated the contested deposition. Notwithstanding this acknowledgment, His Lordship considered himself bound by the doctrine of *stare decisis*, as pressed upon him by the respondents, to uphold such a requirement. This concession lays bare how rigid adherence to precedent entrench a procedural absurdity and eclipsed the dictates of justice, culminating into a clear miscarriage of justice.

b. In both legal and ordinary usage, the word "absurd" denotes that which is so unreasonable, illogical, or contrary to common sense that it cannot reasonably be imputed to be the intention of the lawmaker nor reconciled with the demands of fairness. To enforce such a rule under the banner of precedent is to elevate form over justice and to sanction an outcome that the law itself should abhor.

c. The minority judgment of this Honourable Court in suit No. SC/266/2017, made it clear that there is no statutory provisions or settled judicial precedent which compels the filing of a pre - action complaint or petition to the Governor as a precondition for instituting proceedings in court over deposition disputes. This reasoning underscores that the suppose requirement lacks authoritative foundation in law and, if enforced, would amount to an unwarranted procedural innovation inconsistent with established principles.

3. <u>GROUND THREE</u>:-

THE JUDGMENT OF THIS HONOURABLE COURT IN SUIT NO.SC/266/2017 (GOVERNOR OF KEBBI STATE & 12 ORS V. ALHAJI AL-MUSTAPHA HARUNA JOKOLO & ANOR, HAVING BEEN PREDICATED UPON AN UNLAWFUL BARRIER TO THE COURT'S JURISDCITON CONSTITUTES A FUNDAMENTAL DENIAL OF THE APPLICANT'S RIGHT OF ACCESS TO COURT AND FAIR HEARING.

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PARTICULARS OF UNLAWFUL DENIAL OF CONSTITUTIONAL RIGHTS:

a. The Judgment of this Honourable Court in suit No.SC/266/2017 - Governor of Kebbi State & 12 Ors v. Alhaji Al-Mustapha Haruna Jokolo & Anor, conditioned the Applicant's right to challenge his deposition on first petitioning the Governor, the very authority responsible for the impugned act thereby placing the Governor in the impermissible position of *accuser, prosecutor, and judge in his own cause*, contrary to the constitutional and common law rule of *nemo judex in causa sua*. This interpretation violates Section 36 of the 1999 Constitution by subordinating judicial recourse to executive discretion and requiring a litigant to seek relief from the party whose action is under challenge.

b. In *Governor of Kebbi State & Ors v. Jokolo* (SC/266/2017), this Honourable Court conditioned the Applicant's right to challenge his deposition on first petitioning the Governor the very authority responsible for the contested act. Such a requirement violates the constitutional right of fair hearing under Section 36 of the 1999 Constitution by subordinating access to the courts to executive discretion and compelling the litigant to seek redress from the very party whose conduct is in issue. It thereby offends the rule of *nemo judex in causa sua* and undermines the supremacy of the Constitution.

c. The Applicant's immediate banishment, solitary confinement under armed guard, and the months - long siege of his residence rendered compliance with such a precondition not only practically impossible but also constitutionally untenable. By the settled maxim *lex non cogit ad impossibilia* (the law does not compel the

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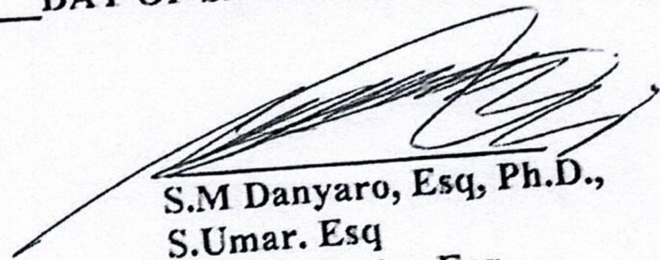
act that circumstances made unattainable. Even if the requirement were otherwise valid, insisting on its observance in these conditions would occasion a grave miscarriage of justice and offend the guarantee of fair hearing under Section 36 of the 1999 Constitution.

d. Where a judgment of the Supreme Court contravenes express provisions of the Constitution, the resulting error is fundamental, going to the root of the decision, and constitutes a valid ground for review by the Court itself.

DATED THIS 22ND DAY OF SEPTEMBER, 2025



S.M Danyaro, Esq, Ph.D.,
S.Umar. Esq
P.C Onyenobe. Esq
H.M Bello, Esq
A.A Inianum, Esq
Chonoko & Co. Law Chambers
Gidan Nagodi Plaza, Gesse 1,
Birnin Kebbi, Kebbi State,
+2347066050988,
Scn0509070@nigerianbar.ng.

FOR FILING & SERVICE ON:-

1. **1st Respondent,**
   Government House, G.R.A, Birnin Kebbi, Kebbi State,
2. **2nd Respondent,**
   Ministry of Justice, Birnin Kebbi, Kebbi State,
3. **3rd Respondent,**
   Kebbi State Council of Chiefs Secretariat, Emir's Palace, Birnin Kebbi
4. **4th -13th Respondents,**
   Gwandu Emirate Council Secretariat, Emir's Palace, Birnin Kebbi

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IN THE SUPREME COURT OF NIGERIA
HOLDEN AT ABUJA

NO: SC/266/2017
NO: SC/ /2025

BETWEEN:

ALHAJI ALMUSTAPHA HARUNA JOKOLO_________APPLICANT

AND:

1. **GOVERNOR OF KEBBI STATE**
2. **ATTORNEY GENERAL, KEBBI STATE**
3. **KEBBI STATE COUNCIL OF CHIEFS**
4. **GWANDU EMIRATE COUNCIL**
5. **ALH. ABDULLAHI UMAR** *(Wazirin Gwandu)*
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11. **ALHAJI MUKHTAR ABDULLAHI** *(Walin Gwandu)*
12. **ALHAJI IBRAHIM BASHAR** *(Galadima Babba)*
13. **ALHAJI AMINU AHMED** *(Sarkin Fada)*

RESPONDENTS

AFFIDAVIT IN SUPPORT OF MOTION FOR REVIEW

I, **HIS ROYAL HIGHNESS, ALHAJI ALMUSTAPHA HARUNA JOKOLO**, Male, Adult, Muslim, the 19th Emir of Gwandu, Kebbi State, a Nigerian citizen, residing at Kasim Ibrahim Road, Unguwar Rimi, Kaduna, Nigeria, do hereby make oath and state as follows:

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1. That I am the Applicant in this matter, and the facts herein are within my personal knowledge, except where stated to be from my counsel, which I verily believe to be true.
2. That I was appointed the 19th Emir of Gwandu on 11th September, 1995, and held the position until 3rd June, 2005, when I was deposed.
3. That on the said date, I was invited to the Kebbi State Government House by security operatives where the 1st Respondent publicly announced my deposition without any prior notification or opportunity for me to be heard.
4. That no inquiry was conducted by the Kebbi State Council of Chiefs before the said deposition, contrary to the procedures under the Chiefs (Appointment and Deposition) Law, Cap. 21, Laws of Kebbi State, 1996.
5. That immediately after my deposition, I was forcefully taken into banishment to Obi, in Nasarawa State, where I was kept in banishment on the directives of the 1st Respondent.
6. That I instituted **Suit No. KB/HC/14/2005** before the High Court of Kebbi State, which on 29th September, 2014, declared my deposition unlawful and void.
7. That the said judgment was affirmed by the Court of Appeal, Sokoto Division, in **Appeal No. CA/S/12/2015.**
8. That the Respondents appealed further to the Supreme Court in **Suit No. SC/266/2017.**
9. That I was informed by my counsel, **S.M Danyaro. Esq.,** on the 10th of September, 2025 at his office at No. 1, Nagodi Plaza, Gesse Phase I, Birnin Kebbi, Kebbi State, at about 10:30am, and I verily believe him that:

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a. That in *Suit No. SC/266/2017 (Governor of Kebbi State & 12 Ors v. Alhaji Almustapha Haruna Jokolo & Anor)*, the decision of the Court relied on the submissions made by Counsel, which, to the best of his knowledge and belief, did not reflect the correct position of the Law.

b. That the judicial authorities referred to in the majority decision in the said cross-appeal relate to matters of appointment of chiefs, whereas the case in question concerned deposition.

c. The Respondents represented those authorities as if they applied to deposition disputes and the Court (majority) relied on them in its judgment delivered on 4th June, 2025.

d. That the authorities cited in the majority judgment were applied in this case and that they relate to matters other than deposition cases.

e. That the said presentation was referred to in the majority judgment in relation to the decision that my suit was nullified for want of jurisdiction.

f. That in the lead judgment, Honourable Justice Emmanuel Agim, JSC, used the word "absurd" in reference to the requirement for a deposed chief to submit a complaint to the Governor, and His Lordship stated that the requirement was applied on the basis of judicial precedent. A copy of the judgment is attached as Annexure A.

g. That Justice Uwani Abba Aji and Justice Ibrahim Muhammad Saulawa, JSC dissented to the judgment of the court in Suit No.SC/266/2017. Copies of the judgments are attached as Annexure "B" & "C" respectively.

h. That the issue of non - service of pre - action notice was not raised at the trial court or at the Court of Appeal, and the records of

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proceedings do not show any objection taken on the ground of pre-action notice at those stages.

10. That at all the material times after my deposition, I was under forced banishment, prevented from entering Kebbi State, and placed under strict surveillance, with my residence in Kaduna besieged for about three months.

11. That my movement was severely restricted, visitors were screened or turned away, and I was at one point removed from the National Hospital, Abuja, against medical advice, back to detention in Obi, Nasarawa State.

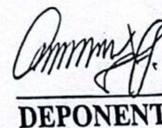
12. That due to the said banishment, movement restrictions, and security surveillance placed upon me, I could not physically deliver any petition to the 1st Respondent, who was the person that ordered and carried out the acts forming the subject of my complaint.

13. That I was further informed by my counsel at the above stated address and time, and I verily believe him to be true as follows:

    a. That the requirement applied against me was to first submit a complaint to the Governor, who was the person that ordered my deposition and banishment.

    b. That if the said judgment is not reviewed, I will continue to suffer the consequences of the said judgment.

14. That I depose to this affidavit in good faith, conscientiously believing the contents to be true and in accordance with the Oaths Act.



DEPONENT

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Sworn to at the Registry of the Supreme Court of Nigeria, Abuja

This 2 **Day of** Oct **2025**

BEFORE ME

COMMISSIONER FOR OATHS

Anthony Onenya Olege Esq
Commissioner for Oaths 8
SUPREME COURT OF NIGERIA

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ANNEXTURE A

IN THE SUPREME COURT OF NIGERIA
HOLDEN AT ABUJA
ON WEDNESDAY DAY, THE 4TH DAY OF JUNE, 2025

BEFORE THEIR LORDSHIPS

UWANI MUSA ABBA AJI	JUSTICE SUPREME COURT
IBRAHIM MOHAMMED MUSA SAULAWA	JUSTICE SUPREME COURT
EMMANUEL AKOMAYE AGIM	JUSTICE SUPREME COURT
CHIOMA EGONDU NWOSU-IHEME	JUSTICE SUPREME COURT
JAMILU YAMMAMA TUKUR	JUSTICE SUPREME COURT

SC. 266/2017

BETWEEN

1. Governor of Kebbi State
2. Hon. Attorney General, Kebbi State
3. Kebbi State Council of Chiefs
4. Gwandu Emirate Council
5. Alh. Abdullahi Umar (Wazirin Gwandu)
6. Barr. Muhammad Sambo Aliyu (Magajin Ratin Gwandu)
7. Alh. Aminullah Umar (magajin Gari)
8. Alh. Muhammadu Wanka (Sarkin Illo)
9. Alh. Mainasara Zagga (Sarkin Zagga)
10. Alh. Buhari Muhammad (Sarkin Aliero)
11. Alh. MukhtarAbdullahi (Walin Gwandu)
12. Alh. Ibrahim Bashir (Galadima Babba)
13. Alh. Aminu Ahmed (Sarkin Fada)

APPELLANTS

AND

1. Alh. Al-Mustpha Haruna Jokolo
2. Alh. Muhammadu Iliyasu Bashar

RESPONDENTS

Certified True Copy
Gambo Yaldami Yelmis Esq.
REGISTRAR 26/6/25
SUPREME COURT OF NIGERIA
Official

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JUDGMENT

(DELIVERED BY EMMANUEL AKOMAYE AGIM, JSC)

Following the deposition of the 1st cross-respondent herein as the 19th Emir of Gwandu and the appointment and installation of the 2nd cross-respondent as the 20th Emir of Gwandu on 3-6-2005 by the 1st cross-appellant, the 1st cross-respondent on 29-8-2005 filed Suit No. RB/HC/14/2005 in the High Court of Kebbi State challenging same. Following conclusion of the pleadings, evidence and final addresses by all sides, the Kebbi State High Court delivered judgment on 11-12-2014 granting the claimant (1st cross-respondent herein) the following reliefs-

1. **An order setting aside the 1st Defendant purported deposition of the Plaintiff as the Emir of Gwandu which is null and void.**
2. **An order setting aside the entire processes leading to the appointment and installation of the 14th Defendant as the emir of Gwandu.**
3. **An order directing the 1st Defendant to forthwith re-instate the Plaintiff as the Emir of Gwandu with all the privileges and prerequisite; accustomed attached to the office of an Emir of Gwandu as contained in the Appointment of the Emir of Gwandu order, 1995 by which the Plaintiff was appointed Emir of Gwandu.**

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4. An order directing the 1st Defendant to forthwith pay to the Plaintiff outstanding arrears of his salaries and other entitlements and benefits due to him from 3rd June, 2005 to date.

Dissatisfied with this judgment, the 1st cross-appellant and 2nd cross-respondent herein appealed against it to the Court of Appeal. Following the filing, exchange and adoption of briefs, the Court of Appeal on 14-4-2016, in Appeal No. CA/S/12/2015 delivered judgment holding that the appeal lacked merit, dismissed it and affirmed the judgment of the trial court.

Appeals Nos. SC/2/2013, Sc/314/2016, and Sc/1064/2024 and this Cross Appeal No./266/2017 were filed in this Court by parties dissatisfied with the Court of Appeal judgment for varying reasons. With the consent of Learned Counsel for all the parties to these appeals, this court directed that there was no need to determine each of the appeals against the said judgment separately and that since the Cross Appeal deals with both the issues of lack of jurisdiction of the trial court and the merit of the case, it should be determined and the decision on the issues therein will bind the above listed sister appeals.

The issues raised for determination in the cross-appellant's further amended brief and in the 1st cross-respondent's further amended brief are essentially the same. This cross-appeal is determined on the basis

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of the issues raised for determination in the cross-appellant's further amended brief as follows-

1. Whether the proceedings conducted before the Trial Court and the Court below without compliance with the precondition for the institution of a competent action by the 1st Cross Respondent under the Chiefs (Appointment and Deposition) Law Cap. 21 Laws of Kebbi State 1996, were not null and of no effect whatsoever? (Ground 1).
2. Whether the 1st Cross Respondent's right of action which allegedly accrued against the 1st and 3rd Cross Appellants on the 3rd of June, 2005, was not statute barred at the time of their joinder as 1st and 3rd Defendants by the Order of the Trial Court made on the 9th January, 2013 in Suit No. KB/HC/14/2005, by reason of the provisions of Section 2(a) of the Public Officers' (Protection) Law and Section 18 read together with Section 41 of the Limitation Law, Cap. 80, Laws of Kebbi State, 1996? (Ground 2)
3. Whether having regard to the pleadings and evidence adduced by the 1st Cross Appellant as Plaintiff before the trial Court, the Court below was right in affirming the judgment of the trial Court which granted the declaratory reliefs sought by the 1st Cross Respondent without legally admissible evidence and in breach of the Cross Appellant's right to fair hearing? Grounds 3, 4, 5, and 6).

Let me start with issue No. 1.

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I have carefully read and considered the arguments in all the briefs on this issue

The clear question that is thrown up by the arguments in all the briefs on the issue is whether the trial court's exercise of jurisdiction to entertain and try the 1st respondent's claim in suit No. KB/HC/14/2005 is a nullity as the suit was incompetent and could not be validly tried by the court because the cross respondents did not first complain or petition to the Governor of Kebbi State about his deposition as the 19th Emir of Gwandu and the appointment of the 2nd respondent as the 20th Emir of Gwandu on 3-6-2005 before filing the suit.

Learned SAN for the cross appellant contends that S.4 (3) of the Chiefs (Appointment and Deposition) Law Cap 21 Laws of Kebbi State require that a complain or petition against a deposition or appointment of a chief or head chief be first made to the Governor before an action challenging same can be filed in court.

Learned Counsel for the 1st respondent argued in reply that section 4(3) of the Chiefs (Appointment and Deposition) Law applies only to disputes over the appointment of a chief or head chief and is not applicable to dispute over the deposition of a chief or head chief.

Let me determine the merits of these arguments.

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Section 4(2) and (3) of the chiefs (Appointments and Deposition) Law states that-

(2) Upon the death, resignation or deposition of any chief or head chief of a kind described in subsection (1) the Governor may approve as the successor of such chief or head chief, as the case may be, any person appointed in that behalf by those entitled to appoint in accordance with the provisions of any order made by the Governor prescribing the method of appointment of such a chief or head chief; and if no appointment is made before the expiration of any interval prescribed in any such order the Governor may himself appoint such person as he may deem fit and proper to carry out such duties incidental to the chieftaincy as it may be necessary to perform.

(3). In the case of any dispute, the Governor, after due inquiry and consultation with the persons concerned in the selection, shall be the sole judge as to whether any appointment of a chief or head chief has been made in accordance with any such order."

A long line of the decisions of this court have applied similar provisions as requiring that a pre-action complain or petition to the Governor must first be made before an action over a chieftaincy dispute can be filed in court. See for example **Agbodemu&Ors V Agboola&Ors (SC/169/2015 of 7-2-2025),A-G Kwara State V Adeyemo (2017) 1NWLR (Pt 1546) 210, Aribisala V Ogunyemi (2005) 6 NWLR (Pt 921), Adesola V Abidoye (1999) 14 NWLR**

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(Pt 637) 28, **Gafar V Govt of Kwara State (2007) 4 NWLR (Pt1024) 375, Olatifu V Akomolafe (2011) ALL FWLR (Pt. 575) 292, Faloye V Awoseni (2001) 9 NWLR (Pt 717) 190.**

Although I hold the view that it is absurd to require a pre-action complain to the Governor that carried out the disputed deposition or appointment of a chief for review and that the there is nothing in section 4(3) or like provisions that prescribe such a requirement, I am bound by the plethora of decisions of this court on the point in keeping with the principle of stare decisis, unti this court departs from the prevailing case law established by its said decisions. Therefore the prevailing case law is that a pre-action complain or petition to the Governor must first be made before an action over a chieftaincy dispute can be filed in court and that the absence of a pre-action complain or petition to the Governor before an action is filed is a feature that renders the action incompetent and robs the court of the jurisdiction to entertain it.

Let me now consider the argument that the requirement of a pre-action complain or petition to the Governor before action is applicable only to disputes over the selection and appointment of a chief and is not applicable to disputes over the deposition of a chief by virtue of the clear provisions of Section 4(3) of the Chiefs (Appointment and Deposition) Law.

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Existing case law appear to be that similar provisions apply to all chieftaincy disputes including the selection, appointment and deposition of a chief. In **Olatifu V Akomolafe (2011) ALL FWLR (Pt. 575)292** this court for the purpose of applying provisions similar to Section 4(3) of the Kebbi State Chiefs (Appointment and Deposition) Law, defined chieftaincy dispute as a dispute or question as to the validity of selection, appointment, approval of appointment, recognition, installation, grading, deposition or abdication of a chief. In **Agbodemu&Ors V Agboola&Ors (SC/169/2015 of 7-2-2025)** this court per Abiru JSC stated, concerning provisions exactly the same with Section 4(3) of the Chiefs (Appointment and Deposition) Law, thusly- These provisions are not new and they have passed through the crucible of judicial intervention. The nature and effect of the provision of Section 3(3) of the Law have been settled beyond per adventure by several decisions of this court. It is settled law that the provision is a domestic grievance resolution procedure in chieftaincy disputes and it must be followed and exhausted by a party aggrieved in a chieftaincy matter before he can approach the court, otherwise his action will be deemed premature and this will rob the trial court of jurisdiction to hear and determine it. This court has further held that the requirement of exhausting the domestic grievance resolution procedure before a party can commence an action does not violate the constitutional guaranteed right of access to court as the decision of the arbitrating authority is not final and conclusive and the party was still

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at liberty to proceed to court thereafter. It is only a means of alternative dispute resolution to reduce congestion of cases before the court. See for example the case of Eguamwense V Amaghizemwen (1993) 9 NWLR (Pt315) 1, Adesola V Abidoye (1999) 14 NWLR (Pt 637) 28, Aribisala V Ogunyemi (2005) 6 NWLR (Pt 921) 212, Awoseni V Faloye (2005) 14 NWLR (Pt 946) 719, A-G Kwara State V Adeyemo (2017) 1 NWLR (Pt 1546) 210.

....

The words used in Section 3(3) of the Law are in case of "any dispute". The Law is that where a statute uses a word or phrase generally or without any limiting words, it is obvious that it intends that the word or phrase should have a general meaning and application, unless other provisions in the statute expressly state or suggest the contrary, and if there are no other provisions of the statute requiring or suggesting the contrary, the Court must apply the word or phrase generally, and will have no power to restrict its application to specific situations. In such situations, the words "any dispute" must be interpreted to mean all disputes and/or every dispute – ObayuwanaVs Governor of Bendel State (1983) 4 NCLR 86, Attorney General, Kaduna State Vs Attorney General, Federation (2023) 12 NWLR (Pt 1899) 537, Attorney General of the Federation Vs Attorney General of Abia State &Ors (2024) LPELR 62576(SC).

The provisions of the Section 15 (1) of the Chiefs (Appointment and Deposition) Law of Kwara State did not expressly state or suggest any restriction to the phrase "any dispute" used in Section 3(3) of the Law,

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as argued by Counsel to the Appellants. This means that the phrase applies to all and every dispute that an aggrieved party might have with the selection, appointment, approval Installation and recognition stages in the process of making an Oba or Chief. This position is made more certain by the provisions of Section 6 of the Chiefs (Appointment and Deposition) Law of Kwara State. The section empowers the governor, after due enquiry and consultation with the persons concerned with the selection, to depose a chief after installation and recognition, if he is satisfied that such deposition is required according to customary law and practice or is necessary in the interests of peace, order or good government. The section recognizes that the Governor can still make inquiries even after the approval, installation and recognition of an Oba or Chief in resolution of a dispute brought forth by an aggrieved person.

It is noteworthy that the facts of the above cited precedent cases do not involve deposition or removal of a chief. Yet they restate the case law that S.4(3) type provisions apply to all chieftaincy disputes including the selection, appointment and deposition of a chief.

In our present case, the deposition of the 1st cross-respondent as the 19th Emir of Gwandu and the subsequent appointment of the 2nd cross-respondent as the 20th Emir of Gwandu are challenged. Even though more of the reliefs claimed for concern the deposition of the 1st respondent, the grant of those reliefs and the one for his

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reinstatement and reinstallation would be rendered illusory, sterile and academic without a concomitant grant of the relief for the setting aside of the appointment and installation of the 2^{nd}cross-respondent as the 20th Emir. The deposition of the 1st respondent and the appointment of the 2^{nd}cross-respondent are intertwined and cannot be dealt with separately. A complain against the deposition of the 1^{st}cross-respondent without a complain against the appointment and installation of another in his place would amount to an academic exercise because even if such a complain succeeds, the condition of the complainant would remain the same as the unchallenged appointment of another person would remain valid and subsisting, leaving no vacancy for the successful complainant to be reinstated to. So, in a situation where a deposition of a chief is followed by the appointment of another person as such chief, for a complain against the deposition and claim for restatement to have utilitarian value and not be sterile and theoretical, it must include a complain against the subsequent appointment and installation of the other person. In addition to the foregoing, the appointment of the 2^{nd}cross-respondent was made upon the deposition of the 1^{st}cross-respondent by the Governor of Kebbi State pursuant to S.4(2) of the Kebbi State Chiefs Appointment and Deposition) Law that provides for the Governor's appointment of a chief to replace a deposed one. In the light of the

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foregoing, I hold the view that S. 4(3) of that Law should apply to both the appointment and the deposition upon which it was made or that it resulted from.

Therefore, a pre-action complain or petition to the Governor concerning the deposition of the 1st cross-respondent as the 19th Emir of Gwandu and the appointment of the 2nd cross-respondent as the 20th Emir of Gwandu ought to have been made before Suit No. KB/HC/14/2005 was commenced challenging same in keeping with the established case law that applies S.4(3) type provisions as mandatorily requiring such pre-action complain or petition to Governor and that without such pre-action complain or petition to Governor first made before such action is filed, the action would be incompetent and rob the court of jurisdiction to try it. As it is, Suit No. KB/HC/14/2005 is incompetent and the trial court was robbed of jurisdiction to try it. Therefore the exercise of jurisdiction by the trial court to try and determine the suit is a nullity. The decision of the Court of Appeal affirming the trial court decision is equally a nullity.

Issue No.1 in the further amended cross appellants' brief is resolved in favour of the cross appellant. The success of the cross-appeal on this issue has rendered all other issues academic and irrelevant.

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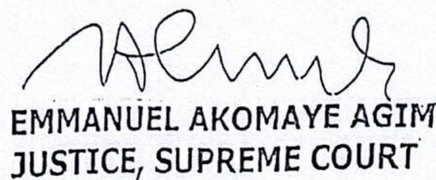
Issue No.1 in the further amended cross appellants' brief is resolved in favour of the cross appellant. The success of the cross-appeal on this issue has rendered all other issues academic and irrelevant.

On the whole this cross appeal succeeds as it has merit. It is allowed. The judgments of the two lower courts are hereby set aside. Suit No. KB/HC/14/2005 is hereby struck out for being incompetent.

I make no order as to costs.

Appeals Nos. SC/2/2013, Sc/314/2016, and Sc/1064/2024 are bound by this decision in this Cross Appeal No./266/2017.



EMMANUEL AKOMAYE AGIM
JUSTICE, SUPREME COURT

APPEARANCES:

Y. C. Maikyau SAN., with Abdullahi Yahaya, SAN., Wale Fapohunda, SAN., C. Nwaubani, Esq., A. Y. Wasagu Esq., A. Belgore Esq., M. F. Belgore Esq. and S. U Madaki Esq., **for the Cross Appellants.**

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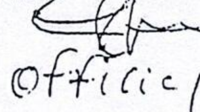
Gambo Yalilami Yelmis Esq.
REGISTRAR 26/6/25
SUPREME COURT OF NIGERIA



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Sylvester Imhanobe, Esq., with Samson Audu, Esq., P. C. Onyenobe Esq. and Tosin Mejiyan Esq., **for the 1st Cross Respondent**

Hussaini Zakariya, SAN. with Abdulmutalab Usman, Esq., Ezra Enwere, Esq., Mustapha Omale, Esq., J. Z. Maleeks, Esq., Munirat O. Yahaya Esq., and F. M. Jodi Esq., **for the 2nd Cross-Respondent**

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ANNEXTURE "B"

IN THE SUPREME COURT OF NIGERIA

HOLDEN AT ABUJA

ON WEDNESDAY, THE 4TH DAY OF JUNE, 2025

BEFORE THEIR LORDSHIPS

UWANI MUSA ABBA AJI	JUSTICE, SUPREME COURT
IBRAHIM M. MUSA SAULAWA	JUSTICE, SUPREME COURT
EMMANUEL AKOMAYE AGIM	JUSTICE, SUPREME COURT
CHIOMA EGONDU NWOSU-IHEME	JUSTICE, SUPREME COURT
JAMILU YAMMAMA TUKUR	JUSTICE, SUPREME COURT

SC. 266/2017

BETWEEN:

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SUPREME COURT OF NIGERIA
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1. GOVERNOR OF KEBBI STATE
2. HON. A. G., KEBBI STATE
3. KEBBI STATE COUNCIL OF CHIEFS
4. GWANDU EMIRATE COUNCIL
5. ALH. ABDULLAHI UMAR (WAZIRIN GWANDU)
6. MUHAMMAD SAMBO ALIYU (MAGAJIN RAFIN GWANDU)
7. ALH. AMINULLAHI UMARU (MAGAJIN GARI)
8. ALH. MUHAMMADU WANKA (SARKIN ILLO)
9. ALH. MAINASARA ZAGGA (SARKIN ZAGGA
10. ALH. BUHARI MUHAMMAD (SARKIN ALIERO)

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thing and the condition precedent given, no other method should be advocated for or relied upon.

It is trite that where the law has laid down a procedure, mode or manner for doing a thing, there is no other acceptable method of doing it. The Courts are duty-bound to ensure that the particular mode or method prescribed by law are complied with. Failure to comply with the prescribed procedure would deprive the thing done of any potency or effect and it will amount to a nullity. See Per JAURO, J.S.C in **GUSAU V. LAWAL & ORS (2023) LPELR-60152(SC) (PP. 48-49 PARAS. D).**

The condition precedent or the precondition for the institution of this suit is predicated upon the activation and applicability of section 4(3) of the Chiefs (Appointment and Deposition) Law of Kebbi State 1996, which the learned SAN to the Cross Appellants has misconstrued and misapplied to the case at hand.

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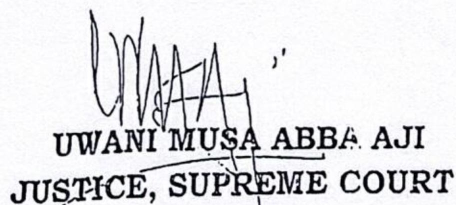
If this is applied as supposedly presented and construed by the learned SAN to the Cross Appellants, surely, there will be no room for the application of the twin rules of natural justice, nemo judex in causa sua and audi alterem partem. The Governor will then turn out to be at the same time, one that can depose at his whims and caprice, prosecute the aggrieved party and be a judge in his own cause. In correctly interpreting section 4(3) of the Chiefs (Appointment and Deposition) Law of Kebbi State, 1996, which is pari materia with section 3(3) of the Chiefs (Appointment and Deposition) Law of Kwara State, 2006, Rhodes-Vivour, JSC (Retired), was impelled in **ATTORNEY GENERAL, KWARA STATE V. ADEYEMO (2017) 1 NWLR (PART 1546) AT 241-242 G-C**, to pointedly clarify on the balanced interpretation thus:

"I am in complete agreement with the above. After the Kingmakers select and appoint a candidate to be Olofa of

trial and appellate courts below. Ordinarily, this Court will not set aside concurrent findings of facts. The concurrent findings of facts and law on the two issues raised by the Cross Appellants are unassailable. See Per OGUNWUMIJU, JSC, in **ABACHA & ANOR V. A.G. OF THE FEDERATION & ORS (2023) LPELR-59545(SC) (P. 20, PARAS. C-E).**

This Cross Appeal fails and is hereby dismissed. I affirm the decision of the Court of Appeal.

When this matter came up for hearing on 11/3/2025, all parties agreed to abide by the decision in this cross appeal. Consequently, appeals SC/2/2013 and SC/314/2016 shall abide this judgment.



UWANI MUSA ABBA AJI
JUSTICE, SUPREME COURT

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APPEARANCES:

Y. C. MAIKYAU, SAN, ABDULLAHI YAHYA, SAN, WALE FAPOHUNDA, SAN, C. NWAUBANI, ESQ. A. I. WASAGU, ESQ. A. BELGORE, ESQ. M. F. BELGORE, ESQ. AND S. U. MADAKI, ESQ. **FOR THE CROSS APPELLANTS.**

SYLVESTER IMHANOBE, ESQ. WITH SAMSON AUDU, ESQ. P. C. ONYENOBI, ESQ. AND TOSIN MEJIYAN, ESQ. **FOR THE 1ST CROSS RESPONDENT.**

HUSSAINI ZAKARIYA, SAN WITH ABDULMUTALAB USMAN, ESQ. EZRA ENWERE, ESQ. MUSTAPHA OMALE, ESQ. J. Z. ALEEKS, ESQ. MUNIRAT O. YAHAYA, ESQ. AND F. M. DI, ESQ. FOR THE **2ND CROSS-RESPONDENT.**

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ANNEXTURE "C"

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

UWANI MUSA ABBA AJI	JUSTICE, SUPREME COURT
IBRAHIM MOHAMMED MUSA SAULAWA	JUSTICE, SUPREME COURT
EMMANUEL AKOMAYE AGIM	JUSTICE, SUPREME COURT
CHIOMA EGONDU NWOSU-IHEME	JUSTICE, SUPREME COURT
JAMILU YAMMAMA TUKUR	JUSTICE, SUPREME COURT

SC/266/2017

BETWEEN

1. GOVERNOR OF KEBBI STATE
2. HON. AG. OF KEBBI STATE
3. KEBBI STATE COUNCIL OF CHIEFS
4. GWANDU EMIRATE COUNCIL
5. ALH ABDULLAHI UMAR (WAZIRIN GWANDU)
6. BARR. MUHAMMAD SAMBO ALIYU (MAGAJIN RAFIN GWANDU)
7. ALH. AMINULLAHI UMARU (MAGAJIN GARI)
8. ALH. MUHAMMED WANKA (SARKIN-ILLO)
9. ALH. MAINASARA ZAGGA (SARKIN ZAGGA)
10. ALH. BUHARI MUHAMMAD (SARKIN ALIERO)
11. ALH. MUKHTAR ABDULLAHI (WALIN GWANDU)
12. ALH. IBRAHIM BASHAR (GALADIMA BABBA)
13. ALH. AMINU AHMED (SARKIN FADA)

} CROSS APPELLANTS

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effect. The term **'cause'** (13[C]) denotes something that produces an effect or result. According to Beale:

> *It has been said that an act which in no degree contributed to the result inquestion cannot be a cause of it; but this, of course, does not mean that an event which might have happened in the same way through the defendant's act or omission had not occurred, is not a result of it.*
>
> *The question is not what would have happened, but, what did happen.*

See Joseph H. Beale: ***THE PROXIMATE CONSEQUENCES OF AN ACT, 33 HARV. L. Rev. 633; 638 (1920).***

Contrariwise, the term ***effect (14[C])*** means something produced by an agent or cause, a result, or outcome, or consequence. See **BLACK'S LAW DICTIONARY** (supra) @ 273 & 651.

I agree with the submission of the 1st Cross Respondent's learned Counsel, to the effect that the provision of section 4 of the ***Chiefs (Appointment and Deposition) Law of Kebbi State*** (supra) is not applicable to the instant case. The reason being that the dispute in the instant case is not merely the question of who between the 1st and 2nd Cross Respondents is qualified to be appointed the Emir of Gwandu. But rather, the case of the 1st Cross Respondent is fundamentally anchored on the provision of Section 6 of the ***Chiefs (Appointment and***

Deposition) Law of Kebbi State (supra), which requires the 1st Cross Appellant to strictly adhere to the mandatory legal due process by conducting an inquiry prior to carrying out deposition of an Emir (such as the 1st Cross Respondent) or Chief, as the case may be.

The case of ***AG KWARA STATE VS. ADEYEMO (2017) 1NWLR (pt. 1546)210,*** cited and relied upon by the Cross Appellants' learned Senior Counsel (paragraphs 4.12 to 4.20 of the brief thereof) is in-applicable to the instant case, as the facts and circumstances surrounding **ADEYEMO'S** case (supra) are completely at variance with the instant case. In the case of ***AG KWARA STATE VS. ADEYEMO*** (supra), the Chief of Offa, The Olofa, was deceased, thereby resulting in rendering the Olofa's stool vacant. Not unnaturally, a dispute arose regarding the nomination of an eligible candidate for the successor of the late Olofa of Offa. However, in the instant case, as extensively narrated ***here-to-fore***, the 1st Cross Respondent was the 19th Emir of Gwandu. He was not engaged in contest for the post of Emir of Gwandu when the 1st Cross Appellant summarily deposed him without following the due process as required under section 6 of the ***Chiefs (Appointment and Deposition) Law (supra).***

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It is my considered view, that the provision of Section 4 of the Chiefs (Appointment And Deposition) Law of Kebbi State 1996 (supra) can not justifiably be applicable to the instant case. It was held by this Court in a plethora of authorities, that ***conditions precedent (Pre-action Notice)*** ordered to be done prior to instituting a suit, neither constitute an ouster clause, nor a device by Government to prohibit a judicial review. Rather, it's an additional formality, and unless proved to be enacted with a view to inhibiting citizens from having access to the Courts, is not repugnant to Section 6(6)(b) of the Constitution of the Federal Republic of Nigeria, 1999 as amended. See ***MADUKOLU VS. NKEMDILIM (1964) All NLR (pt. 2) 589; NDC LTD VS. ASWB (2008) 9 NWLR (pt. 1093) 498; 18 paragraphs A-C***, per Ogbuagu, JSC; ***BAKARE VS. NRC (2007) 17 NWLR (pt. 1064) 606 @ 656; NONYE VS. ANYIAHIE (2005) 1 SCNJ 306 @ 317; NIGERCARE DEV. CO. LTD VS. ADAMAWA STATE WATER BOARD (2008) LPELR – 1997 (SC)*** per Niki Tobi, JSC ***@ 34-35 paragraphs D-A***.

On the authority of ***KATSINA LOCAL GOVT. VS. MAKUDAWA (1971) 7 NSCC 119 @ 124-125***, it was clearly and without any equivocation, held, ***inter alia***, that:

(i) *Provisions prescribing pre-action notice are mandatory;*

(ii) *Non-compliance with such provisions is however an irregularity in the exercise of jurisdiction, which should not be confused with a total lack of jurisdiction;*

(iii) *Non-compliance with condition precedent to the commencement must be pleaded.*

(iv) *Failure to plead pe-action notice amounts to waiver.*

(v) *Where the point was not raised at the trial Court, raising it on appeal would not be proper, as it would tend to introduce serious element of confusion in to legal procedure.*

However, the latter decisions of this Court in **NDC LTD VS. ADAMAWA WATER BOARD** (supra) per Ogbuagu, JSC; et al, appear to depart from the previous decisions in ***KATSINA LOCAL GOVT VS. MAKUDAWA*** (supra); ***MOBIL PRODUCING (NIG) UNLIMITED VS. LASEPA (2002) 18 NWLR (pt. 798) 1.***

THE EVOLUTION OF THE DOCTRINE OF STARE DECISIS (PRECEDENT)

Arguably, the mere mentioning of the trite doctrine of Stare ecisis readily brings to mind the name of that great Common aw legend of all time – Henry Bracton (C1200-1268).

Undoubtedly, he lived over seven centuries ago in England. He was a very prominent judge pf the King's Bench. He was equally ecclesiastic, as most judges were back then.

Bracton had gone down in (the annals of) history as the very first jurist to make the common law into science. He kept a notebook wherein he made notes of over 2000 cases from the old ***Plea Rolls*** way back in the 13th century. He did infact write all the notes in ***Latin*** which formed the basis of his treatise – LAWS AND CUSTOMS OF ENGLAND. Remarkably, by using decided cases in this way, Bracton started the English system of what's today popularly known as **PRECEDENT**. In the said Note Book, he wrote:

> ***Si tamen similia, per simile***
> ***Judicentur, cum bona sit***
> ***Occasio a similibus ad similia.***

That's to say –

> ***If however similar things happen to take place, they should be adjudged in a similaw way: for it is good to proceed FROM PRECEDENT TO PRECEDENT.***

We were told by Lord Denning, MR, the phrase became so popular that Tennyson took it up when he wrote regarding England, that it's a land where –

A man may speak the thing he will.

A land of settled government,

A land of just and old reknown,

Where Freedom slowly broadens down

FROM PRECEDENT TO PRECEDENT.

See LORD DENNING: WHAT NEXT IN THE LAW, Oxford University Press, 1st Edition, 1982 @ 5-6.

It's trite, that in the latter part of the 19th Century, the common law of England held very firmly to the fundamental doctrine of ***stare decisis,*** i.e. a previous decision on the point was held by the Courts to be binding, even though it may be found afterwards to be utterly wrong, absurd or unjust. As aptly remarked by the legendary jurist of all time, Lord Denning, MR:

> *To a student of jurisprudence, this doctrine of precedent exercises a peculiar fascination. He is hypnotized by it.*
>
> *To a practicing lawyer, it is Mr. Facing-both-ways.*
>
> *He is attracted or repelled by it according as to whether it is for him or against him. He can argue either way, as you please.*
>
> *To a Judge, it comes if he chooses, as a way of escape. He does not have to think for himself as to*

decide for himself. It has already been decided by the previous authority. But not so for most Judges.

Whilst ready to applaud the doctrine of precedent when it leads to a just and fair result, they become restless under it when they are compelled by it to do what is unjust or unfair.

This restlessness loads them to various expedients to et round a previous authority. But never to depart altogether – except for an absolution recently granted by the House of Lords to themselves, though not vouchsafed by them to others. So bound by a previous authority that he can not depart from it, the question arises: Ought he to express his own opinion as to its correctness or not?

See LORD DENNING: ***THE DISCIPLINE OF LAW***, Oxford University press 1st Edition, 1979 @ 285.

Interestingly, during the five years Lord Denning served on he bench of the House of Lords (from 1957 to 1962), the House of Lords, as the present Supreme Court then was) passionately eld itself to be absolutely bound by the doctrine of ***stare ecisis.*** Thus, if a previous decision was utterly wrong to the oint of sheer absurdity, and resulted in injustice, nobody could re put it right except the parliament. Yet, most regrettably, the liament was very rarely interested in reforming the law back n. There were no votes therein. See ***RAHEMTOOLS VS.***

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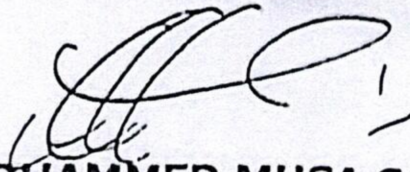
And I am.



IBRAHIM MOHAMMED MUSA SAULAWA
JUSTICE, SUPREME COURT

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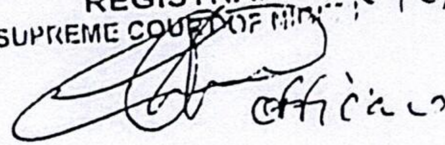
Gambo Yaldami Yelmis Esq.
REGISTRAR 26/6/25
SUPREME COURT OF NIGERIA



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APPEARANCES.

Y. C. Maikyau SAN., with Abdullahi Yahaya, SAN., Wale Fapohunda, SAN., C. Nwaubani, Esq., A. Y. Wasagu Esq., A. Belgore Esq., M. F. Belgore Esq. and S. U Madaki Esq., **for the Cross Appellants.**

Sylvester Imhanobe, Esq., with Samson Audu, Esq., P. C. Onyenobe Esq. and Tosin Mejiyan Esq., **for the 1st Cross Respondent**

Hussaini Zakariya, SAN. with Abdulmutalab Usman, Esq., Ezra Enwere, Esq., Mustapha Omale, Esq., J. Z. Maleeks, Esq., Munirat O. Yahaya Esq., and F. M. Jodi Esq., **for the 2nd Cross-Respondent**

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Gambo Yakdami [illegible]
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SUPREME COURT OF NIGERIA
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IN THE SUPREME COURT OF NIGERIA
HOLDEN AT ABUJA

NO: SC/266/2017
NO: SC/ /2025

BETWEEN:

ALHAJI ALMUSTAPHA HARUNA JOKOLO________APPLICANT

AND:

1. **GOVERNOR OF KEBBI STATE**
2. **ATTORNEY GENERAL, KEBBI STATE**
3. **KEBBI STATE COUNCIL OF CHIEFS**
4. **GWANDU EMIRATE COUNCIL**
5. **ALH. ABDULLAHI UMAR** *(Wazirin Gwandu)*
6. **BARR. MUHAMMAD SAMBO ALIYU** *(Magajin Rafin Gwandu)*
7. **ALHAJI AMINULLAHI UMARU** *(Magajin Gari)*
8. **ALHAJI MUHAMMED WANKA** *(Sarkin Illo)*
9. **ALHAJI MAINASARA ZAGGA** *(Sarkin Zagga)*
10. **ALHAJI BUHARI MUHAMMAD** *(Sarkin Aleiro)*
11. **ALHAJI MUKHTAR ABDULLAHI** *(Walin Gwandu)*
12. **ALHAJI IBRAHIM BASHAR** *(Galadima Babba)*
13. **ALHAJI AMINU AHMED** *(Sarkin Fada)*

RESPONDENTS

WRITTEN ADDRESS IN SUPPORT OF MOTION FOR REVIEW OF JUDGMENT

0 INTRODUCTION

This Application, brought pursuant to **Order 20 Rule 4** of the Supreme Court Rules, 2024, sections **6(6) (b)** and **36** of the Constitution of the Federal Republic of Nigeria 1999 (as amended), and the inherent jurisdiction of this Honourable Court, seeks the **rare intervention** of this Honourable Court to review and set aside its judgment delivered on **4th June, 2025** in **Suit No. SC.266/2017 - *Governor of Kebbi State & 12 Ors***

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v. *Alhaji Almustapha Haruna Jokolo & Anor,* on the grounds of fraudulent misrepresentation of law by the Respondents which induced the court into nullifying the suit and breach of constitutional rights, all of which fall within the exceptional circumstances recognised by this Honourable Court, warranting departure from the principle of finality as finality of judgment cannot sanctify injustice.

1.1 **THIS APPLICATION IS NOT AN APPEAL IN DISGUISE;** it is an invocation of this Honourable Court's exceptional review jurisdiction, to prevent fraud, correct the jurisdictional and constitutional defects in the judgment which constitutes miscarriage of justice. The Applicant does not contend that the Court erred in its evaluation of evidence. Rather, the complaint is that the Court proceeded on a statutory provision and judicial precedent wholly inapplicable to the cause, committed a breach of constitutional rights, and was influenced by a material misrepresentation of law, the circumstances which together occasioned a miscarriage of justice of the kind this Court has consistently refused to permit to stand as in ***Adegoke Motors Ltd. v. Adesanya (1989) 3 NWLR (Pt. 109) 250; Oloba v. Akereja (1988) 3 NWLR (Pt. 84) 508*** and ***Akinleye v. State (2000) 14 NWLR (Pt. 686) 185).***

1.2 The Motion is accompanied by a 14 paragraph affidavit duly deposed to by the Applicant.

2.0 BRIEF FACTS OF THE CASE

2.1 The 19th Emir of Gwandu (Applicant) was deposed by the Governor of Kebbi State in 2005 without complying with the inquiry and advisory process under sections 6 and 7 of the *Chiefs (Appointment and Deposition) Law*, Cap, 21, 1996. Both the High Court and the Court of Appeal nullified the deposition for breaching statutory and constitutional safeguards. However, on the 4th June, 2025, a slim 3 - 2 majority of this

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...able Court over... judgments, holding the suit incompetent for non-compliance with section 4(3), which it interpreted as requiring a prior complaint to the Governor. The minority Justices dissented, insisting that section 4(3) governs appointment disputes only, not depositions.

ISSUES FOR DETERMINATION

It is respectfully submitted that arising from the three (3) grounds of this Application, are three (3) issues for determination of this Honourable Court:

ISSUE 1:- **Whether the extrinsic misrepresentation of section 4(3) of the Chiefs (Appointment and Deposition) Law, Cap. 21, Laws of Kebbi State, 1996 and wrong judicial authorities by the Respondents as presented to and relied upon by this Honourable Court, in Suit No. SC/266/2017, constitutes a misrepresentation amounting to fraud on the Court, thus warranting the setting aside of the judgment notwithstanding the principle of finality.** (Distilled from ground 1 of the Application)

ISSUE 2:- **Whether this Honourable Court in Suit No. SC/266/2017, was right in upholding, on the basis of stare decisis, a precedent it expressly described as "absurd," when such adherence resulted in a *per incuriam* decision that subordinated justice to an unreasonable and illogical interpretation of section 4(3) of the Chiefs (Appointment and Deposition) Law, Cap, 21, Laws of Kebbi State, 1996.** (Distilled from ground 2 of the Motion)

ISSUE 3:- **Whether the judgment of this Honourable Court in Suit No. SC/266/2017, having relied on an inapplicable statutory provision due to the misrepresentation of the Respondents, thereby ousted the Applicant's access to court and denied him fair hearing, in breach of sections 6(6)(b) and 36(1) of the 1999 Constitution (as amended).** (Distilled from exceptional ground 3 of the Motion)

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ARGUMENTS AND LEGAL SUBMISSIONS

ISSUE 1:

The Applicant submits that the Respondents materially misrepresented section 4(3) of the Law as extending to deposition disputes. This mischaracterisation, accepted by the majority, led to an erroneous ouster of jurisdiction. A judgment procured by such misrepresentation falls within the recognised exception to finality, as established in *Bucknor-Maclean v. Inlaks Ltd* (1980) 8–11 SC 1 and *Adegoke Motors Ltd v. Adesanya* (1989) 3 NWLR (Pt. 109) 250.

The 3–2 split in *SC/266/2017* underscores that the case turned on a narrow but fundamental legal error, with the minority expressly rejecting the misrepresentation. In the lead judgment, Agim, JSC, acknowledged that it was "absurd" to require a complaint to the Governor before challenging a deposition, yet felt "bound" by precedent. His Lordship relied on *Oyeyemi v. C.L.G. Kwara State* (1992) 2 NWLR (Pt. 226) 661, *Olatifu v. Akomolafe* (2011) All FWLR (Pt. 575) 292, *Agbodemu v. Agboola* (SC/169/2015), and related cases, to hold that section 4(3) applies to all chieftaincy disputes. With respect, this was induced by Respondents' mischaracterisation of authority as none of these cases extended a pre-action petition requirement to deposition matters. Notably, section 4(3) applies only "where there is a dispute as to the appointment" of a chief. Deposition is separately governed by sections 6 and 7, requiring inquiry and Council of Chiefs' advice. The deliberate statutory separation excludes deposition from section 4(3).

It is our submission that the case *Oyeyemi* relied upon by this Court dealt strictly with **appointment**, not deposition; *Olatifu*'s reference to "appointment and deposition" was definitional dicta, not a ratio on

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procedure. *Agbodemu* did not decide the point; its remarks were obiter. Thus, there was no binding precedent extending section 4(3) to deposition cases, and the law is clear that *stare decisis* applies only where a ratio decidendi exists. No authority has ever held section 4(3) to cover deposition. Reliance on such a "long line" of cases was therefore misplaced.

We submit that the professed adherence to *stare decisis* by this Honourable Court in this circumstance is, with respect, doubtful. Far from being constrained by binding authority, the reasoning of Hon. Justice Emmanuel Agim, J.S.C appears to have departed from, rather than followed the actual ratio of ***Oyeyemi*** and other related authorities. By extending a statutory precondition designed for appointment disputes into deposition matters, His Lordship's approach was, in substance, a **departure from judicial precedent under the guise of fidelity to it**, an outcome which this Court has consistently cautioned against in ***Dalhatu v. Turaki (2003) 15 NWLR (Pt. 843) 310).***

My Lords, we submit that fraud extends beyond fabricated facts to material misrepresentation of law that misleads a court into error. See *Lazarus Estates v. Beasley* (1956) 1 QB 702; *GTB v. Innoson* (2022) 10 NWLR (Pt. 1838) 307. In this case, the Respondents' presentation distorted the statute, shielded the Governor from judicial scrutiny, and induced the majority into a per incuriam decision. That amounts to **extrinsic fraud**, as recognised in *Hip Foong Hong v. H. Neotia & Co.* (1918) AC 888.

The majority decision in *SC/266/2017* was not a mere interpretive error but the product of Respondents' misrepresentation of law. The misstatement was decisive, contemporaneously exposed by dissenting Justices, and resulted in a *per incuriam* judgment. This is not dissent for

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its own sake, but a documented rupture in this Court's jurisprudence that if left uncorrected, would sanction grave inequity under the colour of law. In the interest of justice and the integrity of this Court's process, we respectfully urge Your Lordships to review and set aside the impugned judgment.

ISSUE 2:

5.0

5.1 My Lords, in his dissenting opinion, Saulawa, J.S.C., condemned the majority's mechanical application of precedent in SC/266/2017, invoking the caution of Lord Denning and Bracton on the dangers of blind adherence to stare decisis. His Lordship reminded us that while precedent stabilises the law, it must never compel courts to perpetrate injustice. This warning is directly apposite. The majority admitted that requiring the Applicant to petition the Governor who deposed him was "absurd," yet felt constrained by supposed binding authorities. With respect, that submission was mistaken. Precedent exists to serve justice, not to entrap it. When it produces absurdity or injustice, courts are bound to depart. See *Bucknor-Maclean v. Inlaks Ltd (1980) 8–11 SC 1*; *Odi v. Osafile (1985) 1 NWLR (Pt. 1) 17*; *Adegoke Motors Ltd v. Adesanya (1989) 3 NWLR (Pt. 109) 250.*

5.2 It is trite law that a case is only authority for what it actually decided, not for every stray remark or obiter. See *Thomas v. FJSC (2016) 11 NWLR (Pt. 1523) 312*; *APC v. INEC (2015) 8 NWLR (Pt. 1462) 531.* Similarly, in *Chigere v. Omemma (2021) LPELR-56552 (CA)*, the Court cautioned that precedents cannot be transplanted into alien factual soils. Yet in the instant case, the Respondents urged and the majority accepted an interpretation of section 4(3) meant only for **appointment disputes**, and wrongly applied it to **deposition**.

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We submit that this is not fidelity to precedent, but its distortion. None of the cited cases, including *Agbodemu v. Agboola (SC/169/2015)* or *Oyeyemi v. C.L.G. Kwara (1992) 2 NWLR (Pt. 226) 661*, established a requirement of pre-action complaint to the Governor in deposition disputes.

We further submit that *stare decisis* is not an iron cage. As this Court held in *Sarkin Yaki v. Bagudu (2015) 18 NWLR (Pt. 1491) 288*, precedent only binds where the facts are substantially similar. Here, the facts are wholly distinct: appointment disputes (covered by section 4(3)) versus deposition (governed by sections 6 and 7). To insist on extending section 4(3) to deposition matters is to legislate from the bench.

Indeed, Justice Agim, JSC, in the lead judgment, expressly acknowledged the "absurdity" of such a requirement but nevertheless adhered to it. In law, an "absurd" result is one that is irrational, unjust, or contrary to legislative intent. The "absurdity rule" of statutory interpretation forbids such outcomes. See; *Kalu v. Odili (1992) 5 NWLR (Pt. 240) 20*; *Jarikpe v. Oruru (2019) LPELR-47828 (CA)*.

5.6 The law is clear that this Honourable Court is not bound to follow an earlier decision that is per incuriam or unjust. As Obaseki, J.S.C., memorably stated in *Adegoke Motors Ltd v. Adesanya (supra)*: "*We are final not because we are infallible; we are infallible because we are final. The Supreme Court will not shirk its duty to correct itself when satisfied that an earlier decision was given in error.*"

5.7 We pray this court to resolve this issue in favour of the Applicant

6.0 **ISSUE 3:**

6.1 Section 6(6) (b) of the 1999 Constitution vests judicial power in the courts to determine civil rights and obligations. Section 36(1) further

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guarantees fair hearing before a court within a reasonable time. These rights are sacrosanct and cannot be ousted except by clear constitutional provision. We submit that the decision of this Honourable Court in SC/266/2017 had two direct consequences: notably, it ousted jurisdiction by applying section 4(3) of the Chiefs Law to deposition disputes, contrary to section 6(6)(b), it denied fair hearing by closing the court's doors on a non-existent requirement, contrary to section 36(1). The minority Justices rightly rejected this unconstitutional approach, holding that applying section 4(3) to deposition would unlawfully oust jurisdiction and deny fair hearing. See the reasoning of Saulawa JSC (Annexure C, p. 26).

Assuming section 4(3) imposed a pre-action complaint, compelling the Applicant who was deposed, banished and detained to first petition the Governor who carried out those acts offends the principle of *nemo judex in causa sua*. This Court has consistently struck down such arrangements: *Deduwa v. Okorodudu* (supra); *A.G. Rivers v. A.G. Akwa Ibom* (2011) 8 NWLR (Pt. 1248) 31. Justice Uwani Abba Aji JSC correctly observed that such a rule would make the Governor both a principal party and mandatory first adjudicator an arrangement contrary to constitutional fair hearing guarantees. (Annexure B, p. 11)

6.3 It is our further submission that the alleged non-compliance with section 4(3) was never raised at trial or in the Court of Appeal. The majority nonetheless raised and applied it at the Supreme Court to defeat the Applicant's case. This violated the settled doctrine of waiver and denied the Applicant an opportunity to be heard which constitutes another breach of section 36(1). As this Court held in *Bamgboye v. University of Ilorin* (1999) 10 NWLR (Pt. 622) 290, any act denying a party the chance to present his case renders proceedings void.

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SUMMARY AND CONCLUSION

This application exposes fatal defects in the Supreme Court's majority judgment of 4th June 2025, which was based on misapplied precedent, misrepresentation of section 4(3) of the *Chiefs (Appointment and Deposition) Law*, and an erroneous extension of that provision to deposition disputes.

The integrity of this Court's processes demands correction. The principle of finality cannot shield a judgment born of fraud, misrepresentation, *per incuriam* reasoning, and breach of constitutional guarantees. Where justice and precedent collide, it is justice that must prevail.

In the circumstances, we respectfully urge this Honourable Court, as the ultimate guardian of the Constitution and arbiter of justice, to invoke its review jurisdiction, set aside the impugned majority judgment, and constitutes a differently composed panel to determine the case on its merits. To do otherwise would be to perpetuate an injustice that neither law, equity, nor the Constitution can condone.

7.4 May it please this Honourable Court to grant the reliefs sought in the interest of Justice.

8.0 LIST OF AUTHORITIES

A. Statutes:

1. Constitution of the Federal Republic of Nigeria 1999 (as amended)
2. Chiefs (Appointment and Deposition) Law, Cap. 21, Laws of Kebbi State, 1996.

B. Judicial Decisions:-

1. *Oyeyemi v. Commissioner for Local Government, Kwara State (1992) 2 NWLR (Pt. 226) 661*

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1. Obe & Food Farms (Nig) Ltd v. NNPC (2000) LPELR 1274 (SC) Waiver of objection to non - service of pre - action notice
2. Govt. of Kwara State v. Adeyemo (2017) 1 NWLR (Pt. 1548) 210 Appointment dispute, not deposition
3. Ewhekola v. Ogunremi (2005) 6 NWLR (Pt. 921) 212 Succession/appointment to a chieftaincy stool.
4. Agbodemu & Ors v. Agboola & Ors (SC/169/2015) Appointment of Obe of Agbeku; jurisdiction under Kwara Chiefs Law.
5. Gafar v. Government of Kwara State (2007) 4 NWLR (Pt. 1024), 375 Not a chieftaincy matter, commission of inquiry.
7. Olatifu v. Akomolafe (2011) ALL FWLR (Pt. 575) 292 - Appointment dispute, pre-action procedural steps.
8. Falowe v. Awoyemi (2001) 9 NWLR (Pt. 717), 190 - Appointment dispute only
9. Adesola v. Abidoye (1999) 14 NWLR (Pt. 637), 28 - Appointment-related chieftaincy case.
10. Chief D.O. Ifeazu v. Livinus Mbadigha & Another (1984) 5 SC 79 - Absurdity rule in statutory interpretation.
11. Grey v. Pearson (1857) 6 H.L. Case. 61 - Lord Wensleydale's formulation of the "absurdity rule."
12. Sarkin Yaki v. Atiku Bagudu (2015) 18 NWLR (Pt. 1491) 288.
13. All Progressives Congress v. INEC (2015) 8 NWLR (Pt. 1462) 531.
14. Chigere & Ors v. Omemma & Ors (2021) LPELR - 56552 (CA)
15. Eperokun v. University of Lagos (1986) 4 NWLR (Pt. 34) 162.

DATED THIS 30th DAY OF SEPTEMBER, 2025

S.M Danyaro, Esq, Ph.D
S.Umar. Esq
P.C Onyenobe. Esq
H.M Bello, Esq
A.A Inianum, Esq
Chonoko & Co. Law Chambers
Gidan Nagodi Plaza, Gesse 1,
Birnin Kebbi, Kebbi State.
+2347066050988,
Scn0509070@nigerianbar.ng

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