

**IN THE HIGH COURT OF IMO STATE OF NIGERIA**  
**IN THE ORLU JUDICIAL DIVISION**  
**HOLDEN AT ORLU**  
**BEFORE HIS LORDSHIP, HON. JUSTICE S.I. OKPARA**  
**THIS TUESDAY THE 21<sup>ST</sup> DAY OF JULY, 2026.**

**BETWEEN:**

**SUIT NO: HOR/98/2019**  
**MOTION NO: HOR/317M/2025)**

**HON. CHIEF ATHANASIOS UCHE OGOH == PLAINTIFF/APPLICANT**

**AND**

- 1. THE GOVERNOR OF IMO STATE**
- 2. ATTORNEY GENERAL OF IMO STATE**
- 3. THE COMMISSIONER FOR LAND SURVEY AND URBAN PLANNING, IMO STATE.**

**= DEFENDANTS/  
RESPONDENTS**



**PARTIES:** The parties are absent.

**APPEARANCE:** L.A. NJEMANZE, SAN with O.J. ODOEMENA and B.A. ABAKU for the Plaintiff/Applicant. V.E. EKEMGBA MRS, Director, for the Defendants/Respondents. CHIEF M.I. AHAMBA, SAN with E.N. ICHIE ESQ appear as amicus curie.

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**RULING**

The Plaintiff/ Applicant filed the instant motion on the 20<sup>th</sup> day of November 2025 seeking the following orders:-

- a. **AN ORDER** setting aside the document/Judgment purporting to be the Certified True Copy of the judgment delivered by this Honourable Court on 24/6/2025 in suit No. HOR/98/2019: HON. CHIEF ATHANASIOS UCHE OGOH VS. THE GOVERNOR OF IMO STATE & 2 ORS.
- b. **AN ORDER** directing His Lordship Hon, Justice M.E. NWAGBOSO, (RTD) to produce the actual judgment delivered and read in open

*Plaintiff's motion 035536*

Court on **24/6/2025** in suit No. **HOR/98/2019: HON CHIEF  
ATHANASIOS UGHE OGOH VS. THE GOVERNOR OF IMO  
STATE & 2 ORS.**

There are eight grounds stated on the face of the motion paper for bringing the motion. The motion is supported by seventeen paragraph affidavit sworn to by the Plaintiff/Applicant himself, with seven exhibits i.e. exhibits A- G. The Plaintiff/Applicant also filed a further affidavit of five paragraph sworn to by Plaintiff/Applicant, with three exhibits i.e. exhibits H, 1 and 3.

The Defendants/Respondents upon being served with the instant motion filed a counter affidavit of ten paragraphs on **12/12/2015** sworn to by Mr. Bruno Nwachukwu, a litigation officer in the office of the 2<sup>nd</sup> Defendant/Respondent, with two exhibits i.e. exhibits 1 and 2.

The Defendants/respondents also filed another counter affidavit of ten paragraphs on **31/3/2026** sworn to by the said Mr. Bruno Nwachukwu.

In the course of hearing the instant motion, this Court also invited **CHIEF M.I. AHAMBA, SAN**, the leader of Body of Senior Advocates of Nigeria Imo State Chapter and **CHIEF CHRIS IHENTUGE**, the chairman of the Nigeria Bar Association Owerri Branch to address this Court on the instant motion as amicus curie. **CHIEF M.I. AHAMBA, SAN**, filed a Written Address on **9/6/2026**.

Both **CHIEF M.I. AHAMBA, SAN** and **CHIEF CHRIS IHENTUGE** appeared before this Court on the **11/6/2026** and addressed this Court respectively on the instant motion as amicus curie.

The summary of the facts as presented by the Plaintiff/Applicant in the instant motion is that on the **24<sup>th</sup> day of June 2025**, His Lordship, **M.E. NWAGBOSO J.** delivered a considered judgment in suit No: **HOR/98/2019** wherein His Lordship found and entered judgment for the Plaintiff/Applicant against the Defendants/Respondents but surprisingly the Certified True Copy of the judgment (exhibit B) issued to him on **23/7/2025** is entirely

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different from the judgment read by his Lordship, **M.E. NWAGBOSO J.** on **24/6/2025**. The Plaintiff/Applicant contended that the said Certified True Copy of the judgment issued to him is not the judgment delivered and read in open Court by His Lordship, **M.E. NWAGBOSO, J.** in that in the judgment delivered and read in open Court on **24/6/2025**, he (the Plaintiff/Applicant) won the case and all his reliefs were granted but in the Certified True Copy of the judgment issued to him (the Plaintiff/Applicant) on **23/07/2025**, his (Plaintiff/Applicant's) case was dismissed.

To prove the foregoing, the Plaintiff/Applicant presented and relied on exhibit A (the causelist of the Court on **24/6/2025** when the judgment was delivered and read in open Court), exhibit E (affidavit of facts sworn to by Chief Remy Chukwujeze Ogu, a senior legal practitioner who was present in Court when the judgment was delivered and read in open Court on **24/6/2025** by His Lordship, **M.E. NWAGBOSO, J.**), exhibit F (affidavit of facts sworn to by **AGBORDIKE CELESTINE CHINEDU ESQ**, a legal practitioner who was also present in Court when the judgment was delivered and read in open Court on **24/6/2025**), exhibit G (affidavit of facts by **CHIEF C.I. ASIKA ILOBI ESQ**, a legal practitioner who was also in Court on **24/6/2025** when the judgment was delivered and read in open Court), exhibit H (affidavit of facts sworn to by **F.N. OJINKA ESQ**, a legal practitioner who was also in Court on **24/6/2025** when the judgment was delivered and read in open Court) and exhibit I (a certified True Copy of the notice of Appeal filed by the Defendants/Respondents on **26/6/2025**, two days after the judgment was delivered and read in open Court on **24/6/2025**).

The summary of the argument presented by the learned counsel for the Plaintiff/Applicant in his Written Address in support of the instant motion is that the Certified True Copy of the Judgment i.e. Plaintiff/Applicant's exhibit B and Defendants/Respondents' exhibit I is a nullity and ought to be set

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aside by this Court because it is not the judgment delivered and read in open Court on **24/6/2025** by His Lordship, **M.E. NWAGBOSO, J.** which judgment was in favour of the Plaintiff/Applicant. The learned counsel for the Plaintiff/Applicant buttressed his point by submitting that the Defendants/Respondents could not have appealed against a judgment which was in their favour. He submitted that the notice and grounds of Appeal filed by the Defendants/Respondent on **26/6/2025**, two days after the judgment on **24/6/2025** (exhibit i) clearly show that the Defendants/Respondents lost in the judgment delivered and read in open Court by His Lordship **M.E. NWAGBOSO, J.** on **24/6/2025**.

The facts relied upon by the Defendants/Respondents in their two Counter Affidavits referred to above are that the judgment delivered and read in open Court on **24/6/2025** is as contained in the Certified True Copy of the judgment issued on **23/07/2025**. The Defendants/Respondents contended that the notice and grounds of Appeal filed by them on **26/6/2025** was in error because their learned counsel could not instruct the litigation officer not to file the said notice and grounds of Appeal which was prepared in anticipation of the judgment being against them, due to his illness.

The learned State counsel, **V.E. EKEMGBA MRS**, in her Written Address in support of the Counter Affidavit filed on **12/12/2025** argued that this Court is functus officio and lacks the jurisdiction to entertain the instant motion.

She further argued that the instant motion constitutes an abuse of process in that the Plaintiff/Applicant also filed an Appeal on the **23/09/2025** against the judgment as contained in the Certified True Copy of the judgment (exhibit (one) of the Defendants/Respondents. She also argued that the Certified True Copy of the judgment was the judgment delivered and read in open Court on **24/6/2025**. **CHIEF M.I. AHAMBA, SAN** as

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amicus curie argued extensively in his Written Address that the instant motion is not praying this Court to determine the correctness or otherwise of the judgment as contained in the Plaintiff/Applicant exhibit B or the Defendants/Respondents' exhibit 1 but that this Honourable Court should set aside the judgment as contained in exhibit B or 1 because it is a nullity for not being the judgment that was delivered and read in the open Court by His Lordship **M.E. NWAGBOSO, J.** on **24/6/2025**.

The learned senior counsel argued that this Court lacks the vires to look into the correctness or otherwise of the Judgment as contained in exhibit B or 1. However, he submitted that this Court has the jurisdiction to set aside the said judgment on the ground of being a nullity. He submitted boldly that following the invitation by the Court for him to address this Court as amicus curie on the instant motion, he applied for the Certified True Copy of the hand written record of His Lordship, **M.E. NWAGBOSO, J.** in order to ascertain his Lordship's hand written summary of the said judgment in the record book and that the Certified True Copy of what was issued to him by the Registrar of this Court as the recording of the summary of the judgment by his Lordship clearly shows that the record book in respect of the judgment was doctored because a piece of typewritten paper was used to cover completely the portion of the record book where his Lordship has recorded the summary of the judgment in long hands. He further submitted that the said feature in the record book, the affidavit evidence of four legal practitioners who were present in Court during the delivery and reading of the Judgment in open Court by his Lordship, **M.E. NWAGBOSO, J.** on **24/6/2025** which are unanimous that the Plaintiff/Applicant won in the Judgment read in open Court and the notice and ground of appeal filed by the Defendants/Respondents on **26//6/2025**, two days after the judgment clearly show that the judgment as contained in exhibits B and 1 is not the judgment delivered and read in

open Court, by his Lordship, **M.E. NWAGBOSO, J.** and is a nullity and should be set aside by this Court.

He further argued that the instant motion is not an abuse of process.

**CHIEF CHRIS IHENTUGE** on his own part as amicus curie adopted the argument of **CHIEF M.I. AHAMBA, SAN** and submitted in addition that the Appeal filed by the Defendants/Respondents on **26/6/2025**, two days after the judgment was read on **24/6/2025** by His Lordship, **M.E. NWAGBOSO, J.** is an extensive and exhaustive one and could only have been filed by a legal practitioner who listened to the judgment and not the type filed in anticipation of the judgment due to the body language of the judge as claimed by Mr. Bruno Nwachukwu (the deponent of the two Counter Affidavits of the Defendants/Respondents).

He submitted that in the light of the said Appeal filed by the Defendants/Respondents on the **26/6/2025**, it is obvious that the Defendants/Respondents lost the case when the judgment was read in open Court on **24/6/2025**.

This Court has carefully considered the instant motion with the affidavit in support, exhibits; further affidavit, exhibits and the Written Address and oral submissions of **L.A. NJAMANZE, SAN** on one hand. This Court has also considered the two Counter Affidavits and the Written Address and oral submissions of **V.E. EKEMGBA MRS** on the other hand. This Court has further considered the Written Address filed by **CHIEF M.I. AHAMBA, SAN**, his oral submissions and the oral submissions of **CHIEF CHRIS IHENTUGE** (in their capacities as amicus curie invited by this Court).

I must say without mincing words that this Court lacks the jurisdiction to inquire into or determine the correctness or otherwise of the judgment of His Lordship, **M.E. NWAGBOSO, J.** This Court has variously so held in motion numbers **HOR/262M/2025**, **HOR/275M/2025** and

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**HOR/267M/2025** all in Suit No. **HOR/35/2025: EMMANUEL ODIDIKA & 3 ORS VS. GOV.OF IMO STATE & 3 ORS.**

However, the instant motion is not seeking a determination of the correctness or otherwise of the judgment of His Lordship, **M.E. NWAGBOSO, J.** The instant motion per prayer (a) thereon is asking this Court to set aside the Certified True Copy of the judgment in suit No. HOR/98/2019 on the ground that the said judgment, exhibit B or exhibit 1, is not the judgment delivered and read in open Court on **24/6/2025** by His Lordship, **M.E. NWAGBOSO, J.** To substantiate the said prayer (a) the Plaintiff/Applicant presented before this Court exhibits E, F, G and H i.e. the affidavit of facts deposed to by four legal practitioners who had matters on that day as per the Certified True Copy of the cause list i.e. exhibit A to the instant motion and were physically present in Court on **24/6/2025** when his Lordship delivered and read the judgment in open court and according to them, the Plaintiff/Applicant won in the judgment.

The Defendants/Respondents on their own part did not present any evidence of any other legal practitioner who was in Court on that **24/6/2025**, not even their own learned counsel, **OSITA CHUKWUEMEKA ESQ** who was in Court on that **24/6/2025** to depose to an affidavit to counter or controvert the affidavit evidence of **CHIEF REMY C. OGU, AGBODIKE ESQ, CHIEF C.I. ASIKA ILOBI ESQ** and **F.N. OJINKA ESQ** who unequivocally and unanimously deposed in their respective affidavit of facts i.e. exhibits E, F, G and H in the instant motion that the judgment delivered and read in open Court on **24/6/2025** by his Lordship **M.E. NWAGBOSO, J.** was in favour of the Plaintiff/Applicant and against the Defendants/Respondents.

I have painstakingly read the Certified True Copy of the Judgment i.e. exhibit B or exhibit I of the parties and it is clearly stated therein that the

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Plaintiffs/Applicant's case was dismissed, meaning that the Defendants/Respondents won the case.

However, the same Defendants/Respondents filed a detailed and extensive notice and grounds of Appeal on **26/6/2025** against the judgment delivered and read in open Court on **24/6/2025** by His Lordship, **M.E. NWAGBOSO, J.** The said notice and grounds of Appeal filed by the Defendants/Respondents is exhibited to the further affidavit of the Plaintiff/Applicant as exhibit i. It is rather curious that the Defendants/Respondents whose learned counsel **OSITA CHUKWUEMEKA ESQ** was in Court on **24/6/2025** when the Court delivered and read its judgment which according to the Defendants/Respondents was in their favour will proceed to file a detailed notice and grounds of appeal (indeed comprising six grounds of appeal with numerous particulars), on **26/6/2025** against the same judgment. The attempt by Mr. Bruno Nwachukwu, the litigation officer in the office of the 2<sup>nd</sup> Defendant/Respondent in his Counter Affidavit of **31/3/2026** to the effect that the said notice and grounds of appeal was filed in error is futile and does not convince this Court at all.

This is made worse by the failure of **MR. OSITA CHUKWUEMEKA**, the learned counsel of the Defendant Respondents who was physically present in Court on **24/6/2025** when the judgment was delivered and read by the Court to depose to an affidavit to debunk all that the Plaintiff/Applicant has presented as evidence in support of the instant motion.

Following the submissions of **CHIEF M.I. AHAMBA SAN**, as amicus curie, this Court has critically examined and considered the record book of the Court where His Lordship, **M.E. NWAGBOSO, J.** usually recorded in long hands the summary of each judgment delivered and read by him in open Court and this Court discovered that the portion where his Lordship recorded the summary of the judgment he delivered and read out in this

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suit No. HOR/98/2019 in open Court on **24/6/2025** was completely covered with a type written paper. This said feature in the said record book of the Court pertaining to this suit is rather strange as that is not the usual practice of His Lordship or other superior Courts.

The instant motion is not an abuse of process despite the appeal filed by the Plaintiff/Applicant on **23/09/2025**.

This Court has the inherent power to set aside any of its proceeding or Court process or that of a Court of coordinate jurisdiction that is a nullity, particularly in the instant motion where the Plaintiff/Applicant has presented sufficient evidence as shown above clearly indicating that the record book of the Court was doctored and the Certified True Copy of the judgment issued on **23/07/2025** is not the judgment delivered and read by His Lordship, **M.E. NWAGBOSO, J.** on **24/6/2025** in open Court in

suit No. HOR/98/2019: **HON CHIEF ATHANASIOUS UCHE OGOH VS. THE GOVERNOR OF IMO STATE & 2 ORS.** See the case of **OBIMONURE VS. ERINOSHO & ANOR (1966) LPELR 2530 (SC)**,

where the Supreme Court held that a person who is affected by an order which can properly be described as a nullity is entitled 'ex debito justitiae' to have it set aside under the inherent jurisdiction of the Court that made the order without necessarily appealing against same. Appeal on the other hand is for the determination of the correctness or otherwise of the judgment. What is more, it is not the mere filing of a process that constitutes an abuse of Court process. See the case of **IKOKWU VS.**

**ASSETS MANAGEMENT CORPORATION OF NIGERIA (2017) LPELR-50682 (CA)** where the Court of Appeal held as follows:-

"Abuse of process would only arise where the subject matter and the parties in two or more proceedings are the same and are simultaneously pursued or

maintained. See also the case of **FUTO VS. AMCON**  
**(2024) LPELR – 63036 (SC).**

Abuse of process is the intention or act of using a process of Court to the irritation or vexation of a party and not for the proper administration of justice. See the case of **OGBORU VS. UDUAGHAN (2013) 13 NWLR (PT. 1370) 33.** See also the case of **R- BENKAY NIG LTD VS. CADBURY NIG LTD (2012) LPELR-7820 (SC); OGAR & ORS VS. IGBE & ORS (2019) LPERL -48998 (SC).**

In the light of the foregoing reasons, this court has no difficulty in agreeing with the Plaintiff/Applicant that the Certified True Copy of the judgment issued on **23/07/2025** is not the judgment delivered and read by His Lordship, **M.E. NWAGBOSO, J.** on the **24<sup>th</sup> June 2025**. For the foregoing reasons, this Court rules that the said Certified True Copy of the judgment i.e. exhibit B or exhibit 1 is a nullity.

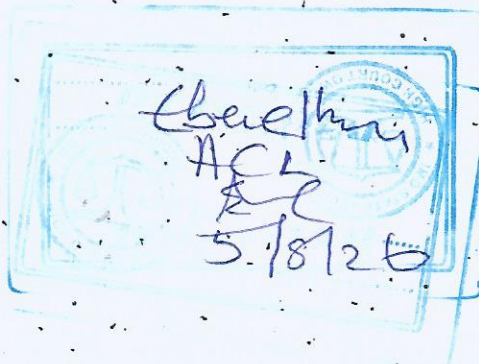
Prayer (a) therefore succeeds.

Prayer (b) is not grantable in that His Lordship, **M.E. NWAGBOSO, J.** is neither a party in suit no. HOR/98/2019 nor a party in the instant motion.

Consequently, it is hereby ordered that the Certified True Copy of the judgment issued on **23/07/2025** i.e. exhibit B to the instant motion or exhibit 1 to the Counter Affidavit is hereby set aside for being a nullity.

Prayer (b) is hereby struck out. I make no other as to cost. I must thank **CHIEF M.I. AHAMBA SAN** and **CHIEF CHRIS IHENTUGÉ** for offering their time, knowledge and wealth of experience at the Bar as amicus curie in this matter.

  
**HON. JUSTICE S.I. OKPARA.**



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