

IN THE FEDERAL HIGH COURT OF NIGERIA
IN THE LAGOS JUDICIAL DIVISION
HOLDEN AT LAGOS
ON WEDNESDAY THE 24TH DAY OF JUNE 2026
BEFORE HIS LORDSHIP
HONOURABLE JUSTICE ALEXANDER OLUSEYI OWOEYE
JUDGE

SUIT NO: FHC/L/CS/1798/2020

BETWEEN:

MR. OBIOMA ANOSIKE

PLAINTIFF

AND

- 1. NIGERIAN POLICE FORCE**
- 2. INSPECTOR GENERAL OF POLICE**
- 3. ATTORNEY GENERAL OF THE FEDERATION**
- 4. COMMISSIONER OF POLICE,
SPECIAL FRAUD UNIT (SFU) IKOYI**
- 5. OFFICER-IN-CHARGE (OC) LEGAL, SFU IKOYI**

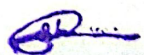
DEFENDANTS

JUDGMENT

By an Originating Summons dated 11th of December 2020 and filed on the 15th of December 2020 brought pursuant to Section 153(3) of the Administration of Criminal Justice Act 2015; Section 44(1) of the 1999 Constitution of the Federal Republic of Nigeria (as amended); Section 84 of the Sheriffs and Civil Process Act 2004; Order 3 Rule 9 of the Federal High Court (Civil Procedure) Rules 2019 and under the inherent jurisdiction of this Court, the Plaintiff seeks a determination of the following questions:

- 1. WHETHER upon proper interpretation of Section 153(3) of the Administration of Criminal Justice Act 2015; and Section 44(1) of the 1999 Constitution of the Federal Republic of Nigeria (as amended) the 1st-2nd and 4th-5th Defendants are not entitled to restore to the**

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NWAGWU C.N.N
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FEDERAL HIGH COURT
IKOYI, LAGOS
DATE 1/6/2026

Plaintiff, the Items (that include the sum of ₦949,500.00 (Nine Hundred and Forty-Nine Thousand, Five Hundred Naira Only), a Samsung A5 mobile phone coloured white and envelopes containing documents) which the 1st Defendant confiscated from the Plaintiff during an execution of a search warrant given that no Court proceedings or any further proceedings or appeal is pending against the Plaintiff.

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Consequent on determination of the above question the Plaintiff claimed the following reliefs:

1. A DECLARATION that the 1st-2nd and 4th-5th Defendants are bound to restore to the Plaintiff the items (that include the sum of ₦949,500.00 (nine hundred and forty-nine thousand, five hundred naira only), a Samsung A5 mobile phone coloured white and envelopes containing documents) which the 1st Defendant seized and confiscated from the Plaintiff during the execution of a search warrant.
2. AN ORDER directing and compelling the Defendants jointly or severally to pay to the Plaintiff the said sum of ₦949,500.00 (nine hundred and forty-nine thousand, five hundred naira only) as well as to deliver to the Plaintiff the Samsung A5 mobile phone coloured white and the envelopes containing documents.

IN ALTERNATIVE TO (Where the said Samsung A5 mobile phone coloured white is unavailable):

3. AN ORDER directing and compelling the Defendants jointly or severally to pay to the Plaintiff the sum of ₦150,110.00 (One

Hundred and Fifty Thousand, One Hundred and Ten Naira only, being the undiscounted market value of the said Samsung A5 mobile phone coloured white on the date immediately preceding the filing of this Suit.

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4. AN ORDER directing and compelling the Defendants jointly or severally to pay to the Plaintiff the sum of ₦450,000.00 (Four Hundred and Fifty Thousand Naira Only) as cost of actions in respect of legal practitioners' fees which the Plaintiff incurred in respect of the Suit.
5. AN ORDER directing and compelling the Defendants jointly or severally to pay to the Plaintiff the sum of ₦500,000.00 (Five Hundred Thousand Naira Only) as general damages.
6. AN ORDER directing the Defendants jointly or severally to pay to the Plaintiff interest at the rate of 21% (twenty-one percent) monthly until the Judgment sum is fully liquidated.

In support of this application, one Chinweuba Chukwu, litigation assistant at SRJ Legal Practitioners deposed to a 40-paragraphs Affidavit on behalf of the Plaintiff. Several documents are attached to it as Exhibit. A Written Address was filed together with it.

Upon being served with the Originating Summons, one ASP Apochi Daniel deposed a 23-paragraphs Counter-Affidavit on behalf of the 1st, 2nd, 4th, and 5th Defendants. Documents marked Exhibits PSFU A and PSFU B. A Written Address was filed together with it.

In response to the 1st, 2nd, 4th, and 5th Defendants' Counter-Affidavit, Chinweuba Chukwu deposed an 18-paragraph Further Affidavit on behalf

of the Plaintiff. Documents marked Exhibits PL, and PM are attached thereto.

One Egboja Elizabeth, Litigation Officer in the civil litigation department of the Federal Ministry of Justice deposed a 5-paragraphs Counter-Affidavit on behalf of the 3rd Defendant. A Written Address was filed contemporaneously with it. Document marked Exhibit AGF1 was attached to it.

The 3rd Defendant further filed a Notice of Preliminary Objection and accompanied it with a Written Address.

This application was moved before this Court on the 25th of March 2025. Learned Counsel, Osita Enwe, Esq., identified and adopted the processes filed for the Plaintiff in urging this Court to grant the reliefs sought. He went on to move the Court to deem the processes filed for the 1st, 2nd, 4th, and 5th Defendant as having been properly filed.

In line with the provisions of Order 22 Rule 9 of the Federal High Court (Civil Procedure) Rules 2019 the 1st, 2nd, 4th, and 5th Defendants' processes are deemed adopted.

Mrs. E.U. Ani identified and adopted the preliminary objection filed for the 3rd Defendant in urging this Court to dismiss this suit against the 3rd Defendant. She went on to identify and adopt the Counter Affidavit and Written Address filed for the 3rd Defendant in urging this Court to dismiss the suit against the 3rd Defendant.

Responding orally, Osita Enwe, Esq. submits that the 3rd Defendant is a nominal party given the constitutional role in the eventual judgment of this Court. He urges this Court to dismiss and discountenance the preliminary objection in the interest of justice.

It is trite that by its nature, a Preliminary Objection has to do with the invocation of the jurisdiction of the Court. It is a pre-emptive strike, resolution of which will determine whether a cause will be determined on its merit. Therefore, where it succeeds, the suit will be struck out, and further proceedings will be rendered unnecessary. Where the objection is not sustained, the Court will consider the cause on its merit. See AJOSE-ADEOGUN VS. OLOJEDE (2024) 13 NWLR (PT. 1956)537; SUNTRUST BANK NIGERIA LIMITED VS. EATON ACQUISITION LIMITED (2024)18 NWLR (PT. 1962)589; AJE PRINTING NIGERIA LIMITED VS. EKITI LOCAL GOVERNMENT AREA (2021) 13 NWLR (PT. 1794)498; SHELL TRUSTEES NIGERIA LIMITED VS. IMANI AND SONS NIGERIA LIMITED (2000) 6 NWLR (PT. 662)639.

In this case, the 3rd Defendant filed Notice of Preliminary Objection against the instant suit initiated by the Plaintiff. In line with the settled position of the law, If the Court upholds the objections, this suit will be struck out. Where however, the Court is unable to sustain the objection(s), it will be entitled to hear the cause on its merit.

It is the law where a Preliminary Objection is raised, by law and procedure, it takes precedence and must be determined and resolved before taking further steps. See MUHAMMAD VS. BARMA (2025) 3 NWLR (PT. 1980)535; EGBA VS. ODU (2024) 18 NWLR (PT. 1970)257; OFUKA VS. IZABI UNIDIE (2022) 3 NWLR (PT. 1818)488; AKIBOYE VS. ADAKO (2011) 6 NWLR (PT. 1244)415.

In line with the settled position of the law, I shall proceed to consider and determine the preliminary objection raised by the 3rd Defendant before determining the substantive suit where the need to so do arises.

In its Notice of Preliminary Objection dated 13th April 2021 and filed on the 28th of July 2021, the 3rd Defendant prays for the following:

1. **AN ORDER of this Honourable Court dismissing the suit against the 3rd Defendant for lack of jurisdiction.**
2. **AND for such further or other order or orders as the Honourable Court may deem fit to make in the circumstances.**

The grounds for the Objection are stated as follows:

1. **That there is no cause of action against the 3rd Defendant.**
2. **That the Court lacks jurisdiction to entertain this suit.**
3. **That the claims as contained in the Applicant's Originating Motion are tortious in nature and wrongfully brought before the Federal High Court.**

In the Written Address in support of the Notice of Preliminary Objection, learned Counsel to the 3rd Defendant, Mrs. Maimuna Lami Shiru submits a sole issue for determination. It is:

"Whether in the circumstances of the case and facts before this honourable Court, the Court lacks jurisdiction to entertain this suit and there is no reasonable cause of action disclosed against the 3rd Defendant/Applicant as he is not a necessary party in the suit."

Arguing the preliminary objection, Mrs Maimuna Lami Shiru relies on the case of **GALADIMA VS. TAMBAL (2000) 2 NSCQR 1156** to submit that jurisdiction of a Court is the authority which a Court possesses to decide matters litigated before it or to take cognizance of matters

presented in a formal way for its decisions. She went on to submit it is the pillar or foundation upon which the entire case stands. She further submits that once it is established that the Court has no jurisdiction, the foundation of the case is not only shaken but is entirely broken.

She went on to rely on the case of **MADUKOLU VS. NKEMDILIM (1962) 2 SCNLR 341** to highlight conditions which must exist before a Court of law will be competent to exercise jurisdiction over a matter.

She submits that a Court can only assume jurisdiction over a matter where jurisdiction to so do is provided for by the Constitution or Statute. She relies on the cases of **UNACHUKWU VS. AJUZIE (2009) ALL FWLR (PT. 495)173**; **LEKWOT VS. JUDICIAL TRIBUNAL (1997) 8 NWLR (PT. 515)22**; **JOSIAH AYODELE ADETAYO & ORS VS. KUNLE ADEMOLA & 2 ORS (2010) 42 NSCQR 1133**; **MUSACONI LIMITED VS. ASPINAL (2013) 54 NSCQR 363** in support of her submission.

She relies on Order IX of the Fundamental Rights (Enforcement Procedure) Rules 2009 to submit that the subject matter of this action is not within Chapter IV of the Constitution or the African Charter on Human and Peoples' Rights (Ratification and Enforcement) Act.

She contends that the principal reliefs sought by the Plaintiff borders on tortious liabilities arising from the confiscation of Plaintiff's properties during criminal investigation.

She argues that the Plaintiff relied on Section 44 of the Constitution of the Federal Republic of Nigeria to try to link the matter with Chapter IV and argue that this matter was brought under the Fundamental Right Enforcement Procedure Rules 2009.

Premised on the foregoing, she submits that based on the Originating Motion and the affidavit in support shows that the Plaintiff's case has a

feature which prevents this Court from exercising its jurisdiction in this case which has its roots in torts. She submits that the Plaintiff's claims are not within the jurisdiction of this Court. She relies on the cases of **MALLAM ABDULLAHI HASSAN & 4 ORS VS. EFCC & 3 ORS (2014) 1 NWLR (PT. 1389)607; RANSOME-KUTI VS. A.G. (FED) (1985) 2 NWLR (PT. 211)257; ABDULHAMID VS. AKAR (2006) 26 NSCQR 1445** in support of her submission.

Once again, she submits that from the totality of the facts leading to this suit which is based on confiscation of property as alleged by the Applicant, this suit is tortious in nature. She contends that the Applicant can only bring this suit by way of writ of summons, filing of pleadings and leading evidence.

She submits that in the light of the statutory and judicial authorities cited, this action which is predicated on torts is not amenable to the jurisdiction of this Court. She submits that this suit is therefore wrongly brought before this Court. She relies on the case of **SEA TRUCKS LTD VS. ANIGBORO (2001) FWLR (PT. 37) 1000** as well as Section 251 of the 1999 Constitution of the Federal Republic of Nigeria (as amended) in support of her submission.

She relies on Section 251 of the 1999 Constitution of the Federal Republic of Nigeria (as amended) to submit that this Court cannot entertain and determine an action which gives rise to tortious liabilities.

She went on to rely on Section 46 of the 1999 Constitution of the Federal Republic of Nigeria' (as amended) to submit that both the Federal and State High Courts have concurrent jurisdiction to hear and determine matters that border on infringement of fundamental rights.

She further relied on the case of **INAKOJU VS. ADELEKE (2007) ALL FWLR (PT. 353)3** to emphasize the importance of jurisdiction. She submits that by approaching this Court for redress, the Plaintiff took a wrong direction that will lead him to legal doom and judicial impossibility because this Court lacks jurisdiction to hear this matter.

For the sake of emphasis, she repeats her submission that this Court cannot entertain matters relating to tort notwithstanding the fact that the Federal Government or any of its agencies is involved in the case. She points out that the major factor for determining which Court assumes jurisdiction is the subject matter of the suit. She submits it is only a State High Court that can adjudicate matters rooted in tort. She relies on the cases of **ANAO VS. SUN PUBLISHING LTD (2003) (PT. 1341); GOV., OF KWARA STATE VS. LAWAL (2007) 13 NWLR (1051)347** (improper citations) in support of her submission.

She submits that the jurisdiction of a Court is determined by the subject matter and claim before the Court. She contends that the subject matter endorsed in the Originating Motion determines the jurisdiction of Court to entertain a suit. She relies on the cases of **AKANJI VS. FEDERAL MINISTRY OF LANDS, HOUSING DEVELOPMENT & ORS (2016) LPELR- 41631 (CA); ADETAYO VS. ADEMOLA (2010) LPELR- 155; ONUORAH VS. KADUNA REFINING & PETROCHEMICAL CO. LTD (2005) 6 NWLR (PT. 921)393** in support of her submission.

She submits that a Court can only be clothed with jurisdiction where the subject matter falls within its jurisdiction. She relies on the cases of **OLANIYAN & ORS VS. FATOKI (2013) 17 NWLR (PT. 1384)477;** **OLORUNTOBA-OJU VS. DOPEMU (2003) FWLR (PT. 158)1264;** **OLORUNLAMBE & ORS VS. COP, KWARA STATE & ORS (2018) LPELR- 45691(CA); OWONIBOYS TECH. SERVICES LTD VS. JOHN HOLT LTD (1991) 6 NWLR (PT. 199)550; ODUTOLA VS. NITEL (2000) 15 NWLR (PT. 690)414; GAFAR VS. GOVT OF KWARA STATE (2007) 4 NWLR (PT. 1024)379** in support of her submission.

She went on to submit that only a party who has a specific interest in a case and who would be bound by the outcome of the case should be made a party. She relies on the cases of **OKONTA VS. PHILIP (2010) 7-12 SC 173; BWACHA VS. SIKENYE (2011) 3 NWLR (PT. 12375)610** in support of her submission.

She submits that necessary parties in an action in court proceedings are those who are not only interested in the subject matter of the proceedings but, parties in whose absence, the proceedings cannot be fairly dealt with. She points out that the question to be settled or determined in the action between the existing parties must be a question which cannot be properly settled unless they are parties to the action instituted by the Applicant. She relies on the case of **GREEN VS. GREEN (1987) NWLR (PT. 61)480** in support of her submission.

She further submits that misjoinder arises where a person who ought not to have been joined is joined as a party and whose presence is not necessary for adjudication and the remedy lies in an application to the Court for the name of the party to be struck out.

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She submits that the 3rd Defendant is neither a necessary party nor a proper party to this suit and that the Plaintiff's case can be completely and effectually determined in its absence.

She submits that the Plaintiff did not disclose any cause of action against the 3rd Defendant nor did it show what remedy it seeks to get from the 3rd Defendant. She relies on the case of **OJO VS. OGBE (2007) 9 NWLR (PT. 1040) 542** in support of her submission. She submits that the 3rd Defendant was mis-joined to this suit and that its name ought to be struck out. She relies on the case of **SCHMIDT VS. UMANAH (1997) (PT. 479) NWLR 84 (IMPROPER CITATION)** in support of her submission.

She submits that the Nigerian Police is a statutory entity and can defend this suit without making the Attorney General a party. She submits that it is only when a claim relates directly to the Federal Government that a suit can properly lie against the Attorney General of the Federation. She relies on the cases of **A.G. KANO STATE VS. A.G. FEDERATION (2005) 6 MJSC; AG ABIA VS. A.G. FEDERATION (2001) 11 NWLR (PT. 725) (Improper citation)** in support of her submission.

She contends that the 1st Defendant is a creation of statute, that is, the Constitution of the Federal Republic of Nigeria with statutory power as a legal entity with legal capacity to sue and be sue in its own name without the Attorney General of the Federation. She relies on the cases of **IBRAHIM VS. JUDICIAL SERVICE COMMISSION (1998) 12 SCNJ 255; THOMAS VS. LOCAL GOVT. SERVICE BOARD (1965) NMLR 310; E.E.P. CO LTD VS. N.D.I.C (2007) 9 NWLR 1039 AT 224; R.O. IYERE VS. BENDEL F. AND F. LTD (2009) VOL. 165 LRCN** in support of her submission.

Premised on the foregoing, she submits that the presence of the 3rd Defendant is not necessary for the determination of this case.

She went on to rely on the cases of EGBE VS. ADEFARASIN (1985) 5 SC 50; ALESE VS. ALADETUYI (1995) 7 SCNJ 40; EGBUE VS. ARAKA (1988) 2 NWLR 598; SAVAGE VS. UWAECHIA (1972) 1 ALL NLR (PT. 1) 251; READ VS. BROWN (1888) 22 Q.B.D; AGF VS. ABUBAKAR (2007) 6 MJSC (PT. 27) on cause of action.

She submits that to determine whether the Applicant's case discloses a cause of action; the entire process with the reliefs sought must be examined by the Court. She relies on the cases of ADESOKAN VS. ADEGOROLU (1997) 3 SCNJ 1; AFOLAYAN VS. OGUNRINDE (1990) 1NWLR 369; ADIMORA VS. AJUFO (1988) 3 NWLR 1 in support of her submission.

She contends that the Plaintiff's affidavit does not disclose any cause of action or claim against the 3rd Defendant and that to this extent the suit is incompetent. She relies on the case of AROMIRE & ORS VS. AWOYEMI (1972) 1 ALL NLR (PT. 1) 101 in support of her submission.

In conclusion, she urges this Court to grant this objection in favour of the 3rd Defendant/Objector by dismissing this suit for want of jurisdiction or in the alternative to strike out the name of the 3rd Respondent.

It is trite that jurisdiction of a Court is a paramount issue in adjudication. Jurisdiction refers simply the adjudicatory power of a Court. In other words, it is the power of a Court to entertain and determine a dispute submitted to it by feuding parties. Jurisdiction is a threshold issue/matter and thus must be addressed as soon as it is raised to avoid undertaking an exercise in futility. It is of utmost importance that a Court has

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jurisdiction before same is exercised because any exercise of jurisdiction where it is absent will result in the proceedings conducted being voided. It is for this reason that a Court must consider the question of whether it has jurisdiction once a party raises a challenge to the exercise of jurisdiction. Neither the Court nor the parties can confer jurisdiction on a court. Hence, where a Court is satisfied that it lacks jurisdiction to entertain a suit or an appeal, it must decline from any further exercise of its power over the case. It is due to this overriding importance of jurisdiction and the pre-eminent role it plays in adjudication that parties are allowed to raise it at any stage of the proceedings. See AMOS VS. PRINCEWILL (2026) 5 NWLR (PT. 2037)617; NNADUAKA VS. ANUNOBI (2025) 9 NWLR (PT. 1994)65; ESTATE OF OLUSOLA POPOOLA VS. ACCESS BANK PLC (2020) 16 NWLR (PT. 1751)539; ILOEGBUNAM VS. OBIORA (2012) 4 NWLR (PT. 1291)405.

Given the importance attached to the issue of jurisdiction and the duty on a Court to consider whether it has jurisdiction, I find it needful to ascertain whether this Court has jurisdiction.

Furthermore, the law is settled that all courts of law derive their power, authority and therefore jurisdiction either under the Constitution or under specific Statutes. In other words, no Court can assume jurisdiction in the absence of having been constitutionally and statutorily empowered to do so. Therefore, every Court in the land derives its jurisdiction from the law that created it. Its competence to adjudicate any cause or matter before it is strictly circumscribed by the provisions of the relevant law, that is, the statute creating the Court or any other statute specifically conferring such jurisdiction on the Court. See JULIUS BERGER NIGERIA PLC VS.

HARRIS (2026) 5 NWLR (PT. 2037)535; STANDARD ALLIANCE INSURANCE CO. LIMITED VS. FIRST CITY MONUMENT BANK LIMITED (2025) 11 NWLR (PT. 1998)133; MAEVIS LIMITED VS. SOCIETE INTERNATIONALE DE (2025) 15 NWLR (PT. 2007)83; AMMANI VS. BALARABE (2022) 14 NWLR (PT. 1849)165.

The exclusive jurisdiction of this Court, the Federal High Court is provided for by Section 251 of the 1999 Constitution of the Federal Republic of Nigeria (as amended). Section 251(1)(r) provides as follows:

"251(1) Notwithstanding anything to the contrary contained in this Constitution and in addition to such other jurisdiction as may be conferred upon it by an Act of the National Assembly, the Federal High Court shall have and exercise jurisdiction to the exclusion of any other Court in civil causes and matters-

(r) any action or proceeding for a declaration or injunction affecting the validity of any executive or administrative action or decision by the Federal government or any of its agencies;"

In effect, the Federal High Court has exclusive jurisdiction in civil causes and matters in any action or proceeding for a declaration or injunction affecting the validity or any executive or administrative action or decision by the Federal Government or any of its agencies.

I have carefully examined the reliefs sought in the Originating Summons. I find that the Plaintiff's claims seek a declaration which borders on the

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NWAGWU C.N.N (MR)¹⁴
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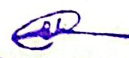
validity of the administrative decision of the 1st and 2nd Defendants. This brings it within the exclusive jurisdiction of this Court under Section 251(1)(r) of the 1999 Constitution of the Federal Republic of Nigeria (as amended). I therefore hold that contrary to the submissions made for the 3rd Defendant, this Court has jurisdiction to hear and determine the cause submitted to it for adjudication.

On the issue of whether a cause of action has been disclosed against the 3rd Defendant, I find it needful to reiterate the settled position of the law that cause of action is the entire set of facts or circumstances giving rise to an enforceable claim. It is the aggregate of facts which the law will recognize as giving the Plaintiff substantive right to make claim for the relief or remedy sought; it includes all those things necessary to give right of action and every fact which is material to be proved to entitle the Plaintiff to succeed in his claim for relief or judicial redress. It consists of every fact that would be necessary for the Plaintiff to prove, if traversed, to support his right to the judgment of the Court. See **NWOBASI VS. EDWIN (2024) 8 NWLR (PT. 1940)197; OLATEJU VS. COMMISSIONER FOR LANDS AND HOUSING, KWARA STATE (2024) 17 NWLR (PT. 1968)473; EZE VS. UMAHI (2023) 6 NWLR (PT. 1880)383; OLADAPO VS. KALEJAYE (2023) 14 NWLR (PT. 1903)153.**

Having said that, the issue which agitates the mind and which begs for an answer is whether the Plaintiff disclosed a cause of action against the 3rd Defendant. I therefore examined the process titled affidavit verifying the facts relied on. In paragraph 8 thereof, the Plaintiff explained the reason for joining the 3rd Defendant to this suit as follows:

**"8. Any judgment of the Court in this Suit
may not be effectually executed without**

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undue delay unless the 3rd Defendant is a Defendant in this Suit and the Plaintiff cannot attend any Court session without grave hardship in view of Exhibit P1."

It is evident that the only reason why the 3rd Defendant was joined to this suit is that the Judgment of this Court may not be effectually executed without undue delay where the 3rd Defendant is not joined as a party to this suit. It is apparent that what the Plaintiff envisages is the execution of the Judgment of this Court in this suit. It has not stated any wrong that has been done by the 3rd Defendant to warrant its joinder to the instant suit. The need to attach the money in the custody of a public officer will not arise until judgment is delivered and where the said Judgment is in favour of the Plaintiff. That cannot be determined at this stage. In any event, where the Judgment of the Court is in favour of the Plaintiff, all that is required of it is written consent of the Attorney-General for the enforcement of Judgment.

I therefore find that no cause of action is disclosed against the 3rd Defendant. Accordingly, I strike out the name of the Attorney-General of the Federation from this suit.

In effect, the preliminary objection succeeds in part.

Having resolved the preliminary objection, I shall now proceed to consider the substantive matter on its merit.

SUBSTANTIVE CASE:

The case presented by the Plaintiff is that officers of the 1st Defendant arraigned the Plaintiff before an Upper Area Court 1, Makurdi, Benue State on or about the 24th of May 2016 on Counts which includes Mischief by fire and offering of gratification to public officer. The complaint was alleged to be at the instance of Globacom Limited.

It is further stated that the Plaintiff was re-arrested by officers of the Special Fraud Unit of the 1st Defendant within the premises of Upper Area Court 1, Makurdi, Benue State on or about the 10th of October 2016 and brought to the Office of the Special Fraud Unit of the 1st Defendant in Ikoyi. It is stated that thereafter, he (the Plaintiff) was arraigned before Lagos State Magistrate Court 1, Igbošere, Lagos on the 21st of October 2016.

It is stated that the Charge against the Plaintiff before the Upper Area Court 1, Makurdi, Benue State was struck out on the 29th of January 2018 while that which was before the Lagos State Magistrate Court 1, Igbošere was struck out on 30th September 2019.

It is stated that in an action to enforce his fundamental rights, this Court (Coram: Honourable Justice Hassan Dikko) found that the Plaintiff's re-arrest and detention was unlawful.

The Plaintiff's case is that when a search warrant was executed in his Makurdi residence, officers of the 1st Defendant took items which were transferred to the Special Fraud Unit Lagos. They are:

- (a) Cash in the sum of Nine Hundred and Forty-Nine Thousand, Five Hundred Naira Only (₦949, 500.00)**
- (b) Samsung A5 mobile Phone (white colour)**
- (c) Envelope containing documents**
- (d) Personal belongings**

The Plaintiff went on to state that he engaged the services of Straddle partners to recover the foregoing items from officers of the 1st Defendant. He narrated the efforts made at the said recovery but went on to state

that the 1st-2nd as well as the 4th-5th Defendants are yet to restore the items to the Plaintiff.

The 1st-2nd, 4th and 5th Defendants responded by stating that a Charge is pending against the Plaintiff before this Court, the Federal High Court. They denied confiscating money from the Plaintiff and went on to state that the said sum of Nine Hundred and Forty-Nine Thousand, Five Hundred Naira Only (N949, 500.00) was the money offered by the Plaintiff as gratification to the Divisional Police Officer at 'B' Division, Gboko.

In the Plaintiff's Written Address in support of Originating Summons, Osita Enwe, Esq. submits a sole issue for determination. It is:

"Whether in the circumstance, the Honourable Court should grant to the Plaintiff the reliefs sought"

In the Written Address in support of the Counter Affidavit, Daniel Apochi, Esq. submits a sole issue for determination. It is:

"Whether or not the Plaintiff is entitled to receive the money he gave to Police as a bribe to conceal their investigation against him, even when the charge is still pending before this Court"

I have carefully examined the issues submitted by Counsel across the divide. It is my considered view that the sole issue submitted by the Plaintiff's Counsel is more apt for determination of this case.

ISSUE FOR DETERMINATION:

"Whether in the circumstance, the Honourable Court should grant to the Plaintiff the reliefs sought"

Arguing this issue, learned Counsel to the Plaintiff, Osita Enwe, Esq., submits that this case is predicated on the provisions of Section 153(3) of the Administration of Criminal Justice Act 2015; Section 44 of the 1999 Constitution of the Federal Republic of Nigeria (as amended) as well as Section 84 of the Sheriffs and Civil Process Act.

He relies on paragraphs 11 and 12 of the Affidavit as well as Exhibits PA and PB to submit that the criminal actions initiated against the Plaintiff have been struck out. He submits that no other court proceedings or appeal is pending against the Plaintiff.

He relies on the cases of **NWOSU VS. IMO STATE ENVIRONMENTAL SANITATION AUTHORITY & ORS (1990) LPELR- 2129;** **OYENIRAN & ORS VS. EGBETOLA & ANOR (1997) LPELR- 2876** to submit that a Court should give a fair and natural interpretation to the statute. He submits that provisions of Section 153(3) of the ACJA 2015 are plain and unambiguous.

He went on to submit that a community reading of Sections 153(3) and 337(1) of the ACJA 2015 is to the effect that where no criminal proceeding is pending against the Plaintiff, the 1st-2nd, 4th-5th Defendants cannot unilaterally, and indefinitely detain and deny him (Plaintiff) access to the said property without an order of Court. He urges the Court to resolve any gap or ambiguity in the words used in Section 153 of the ACJA. He relies on the cases of **LONDON AND COUNTRY COMMERCIAL PROPERTIES INVESTMENTS LTD VS. ATTORNEY-GENERAL (1953) 1 ALL E.R. 436; TUCK AND SONS VS. PRIESTER (1887) 19 Q.B.D. 629; I.R.C. VS. DUKE OF WESTMINSTER (1936) A.C. 1; NWOSU VS. IMO STATE ENVIRONMENTAL SANITATION AUTHORITY & ORS (SUPRA)** in support of his submission.

He points out that the Plaintiff has demonstrated vide Exhibits PA-PB that no criminal action is pending against him and that notwithstanding repeated demands, the 1st Defendant has refused to restore his properties to him or his legal practitioners.

He submits that the Plaintiff is entitled to costs of this action. He relies on the cases of **YAKUBU & ANOR VS. MINISTRY OF HOUSING ENV. BAUCHI STATE & ANOR (2020) LPELR- 49482; EFCC VS. INUWA & ANOR (2014) LPELR- 23597; SHODIPO & COMPANY LTD VS. DAILY TIMES OF NIGERIA LTD (1972) LPELR- 3065** in support of his submission.

In conclusion, he urges this Court to grant the Plaintiff's reliefs as contained in the Originating Summons.

Arguing per contra, learned Counsel to the 1st-2nd, and 4th-5th Defendants, Daniel Apochi, Esq. submits that the Plaintiff is not entitled to receive the money he gave a public officer as gratification to conceal investigation that was being carried out against him. He relies on Section 98A of the Criminal Code Act Cap C38 Laws of the Federation of Nigeria in support of his submission.

He further submits that in the Counter-Affidavit, the 1st-2nd and 4th-5th Defendants stated that the Plaintiff offered gratification in the sum of Nine Hundred and Fifty Thousand Naira (₦950,000.00) to the Divisional Police Officer at 'B' Division, Gboko. He submits that the said sum which has been registered as Exhibit will be tendered during trial before this Court. He submits that the allegation that the money was recovered during conduct of search is not true.

the provision of the Constitution that a person cannot be tried twice for a criminal offence having the same ingredient is not tenable in the circumstance, I so hold."

This Court did not also make an order restraining the Police from further arresting the instant Plaintiff if the same is done following due process of the law.

In **EDOSOMWAN VS. EREBOR (2001) 13 NWLR (PT. 730)265 AT 294, PARAGRAPH E**, the Court of Appeal, per Tobi, JCA (as he then was) held that issues only arise when parties join them.

In this case, the Plaintiff's grievance is that there is no pending matter against him in Court again and but that the 1st-2nd and 4th-5th Defendants have failed to obey the provisions of the law as provided for under Section 153(3) of the Administration of Criminal Justice Act 2015. The 1st-2nd and 4th-5th Defendants however denied this assertion. They asserted that there is a Charge pending against the Plaintiff (as Defendant) before this Court.

It follows that the issue which now arises is whether there is a Charge pending against the Plaintiff before this Court. The law is indeed settled that whoever desires the Court to give judgment to him as to any legal right or liability dependent on the existence of facts which he asserts shall prove that those facts exist, and that the burden of proof lies on that person who will fail if no evidence at all were called on either side. See **STATE VS. CHUKWU (2022) 6 NWLR (PT. 1825)105; ALIYU VS. STATE (2019) 2 NWLR (PT. 1657)511; YUSUF VS. FEDERAL REPUBLIC OF NIGERIA (2018) 8 NWLR (PT. 1622)502; DURU VS. FEDERAL REPUBLIC OF NIGERIA (2018) 11 NWLR (PT. 1632)20.**

Applying the foregoing settled position of the law, it becomes obvious that the burden to prove that a charge is pending against the Plaintiff before this Court is on the 1st-2nd and 4th-5th Defendants. To discharge this burden, they attached a copy of the charge to their Counter Affidavit as Exhibit PSFU B. They went on to state that the Plaintiff has refused to honour the invitation of the 4th Defendant in respect of this Charge.

I have examined Exhibit PSFU B. It is a 3-Count Charge in Charge No. FHC/L/223C/2020. It is dated 14th of August 2020 between INSPECTOR GENERAL OF POLICE AND (1) OBIOMA ANOSIKE (2) BENNY CLARA RESOURCES LTD.

In AKITI VS. OYEKUNLE (2018) 8 NWLR (PT. 1620)182 AT 191, PARAGRAPHS E-G, the Supreme Court, per Rhodes-Vivour, JSC, held as follows:

"Where documentary evidence supports depositions in an affidavit such depositions are the correct position of what it seeks to establish. Documentary evidence lends more credence to material facts deposed to in an affidavit."

In effect, Exhibit PSFU B lends credence to the facts deposed in 1st-2nd and 4th-5th Respondents' Counter-Affidavit that a Charge is pending before the Federal High Court, Lagos Judicial Division against the Plaintiff.

Premised on the foregoing, I answer the sole issue in the negative and resolve the same in favour of the Defendants and against the Plaintiff.

In the final analysis, I find no merit in this case. Accordingly, I dismiss this action in Suit No. FHC/L/CS/1798/2020 BETWEEN MR OBIOMA ANOSIKE AND (1) NIGERIAN POLICE FORCE (2) INSPECTOR-GENERAL OF POLICE

(3) COMMISSIONER OF POLICE, SPECIAL FRAUD UNIT (SFU), IKOYI (4)
OFFICER-IN-CHARGE (OC) LEGAL, SFU, IKOYI.

Parties shall bear their respective costs.

woeye
HON. JUSTICE ALEXANDER OLUSEYI OWOEYE
JUDGE
24/6/2026

CERTIFIED TRUE COPY

Judgment read and delivered in open Court.

APPEARANCE:

Parties are absent

No Legal representatives for the Parties.

[Signature]
NWAGWU C.N.N (MR)
CERTIFIED TRUE COPY
CHIEF EXECUTIVE OFFICER (C.E.O)
FEDERAL HIGH COURT
IKOYI LAGOS
DATE: *16/7/2026*

cashier
miscellaneous
16/7/2026
for
16/7/2026

2014-8688-4454

