IN THE HIGH COURT OF THE FEDERAL CAPITAL TERRITORY

IN THE ABUJA UDICIAL DIVISION
HOLDEN AT GWAGWALADA- ABUJA

DATED THIS THURSDAY 1ST MARCH, 2023

BEFORE HIS LORDSHIP: HON. JUSTICE ALIYU YUNUSA SHAFA

SUIT NO: FCT/HC/GWD/CV/384/2022

BETWEEN:

E. C. UZOCHUKWU SONS LIMITED…….....APPLICANT

AND

1. **GWAGWLADA AREA COUNCIL**
2. **JAMES PARKER**
3. **SANI BELLO MUTAWALE……..…….RESPONDENTS**
4. **DANLADI SHALL**
5. **PERSONS UNKNOWN**

RULING

This ruling is on the applicant notice of preliminary objection brought pursuant to section 36(6) of the CFN 1999 as amended, sections 115 of the local Government Edict 1976 and under the inherent Jurisdiction of this Honourable court dated the 1st December, 2022 and filed on the 12th December, 2022

The motion seeks for the following order:

1. **That this Honourable court lacks the requisite jurisdiction/vires to entertain this suit.**

the grounds in support of the objection are as follows:

1. **Section 115 of the local Government Act, 1976 which is applicable to the FCT require that a pre-action notice stating the cause of action must be issued to local Government before the institution of any originating process in court which is a condition precedent.**
2. **Section 13(1) of the FCT, Act 1976 has absorbed the specific provisions as provided for under section 115 of the local Government Edict 1976.**

3. **The institution of this instant suit without the requisite pre-action notice constitutes an abuse of court process of the Honourable court of Jurisdiction.**

In compliance with the rules of this court of the 1st Defendant/Applicant filed an of 8 pages.

The Claimant/Respondent reply to the notice of preliminary objection dated 28th November, 2022 dated the 13th December, 2022 which is file on the same date of 4 pages written address.

The 1st defendant counsel in moving the said motion of preliminary objection, and the written address in support adopted same as his oral argument and urged this court to strike out the suit for lack of Jurisdiction.

Adumbration

That it is clear that the action is against the Gwagwalada Area counsel as the 1st Defendant and under section 115 of the local Government Edict 1976 of Niger State is also applicable in northern Nigeria and has now been adopted under section 13(1) of the FCT Act of 1976 as item November, 55 of the second schedule of the Act LFN CAPF6 2004.

He went further to submit that every individual who intend to file an action against any of the Area Councils is mandatorily required to give a pre-action notice of one month irrespective of the cause of action stating what is the complaint or the damages arising therefrom and also give a hint as to the likely relief inrespect of the cause of action.

That the philosophy behind this is to enable the local Government explore possible means of settlement if necessary. That failure to servethis notice is so fundamental that it will rob the court of the requisite Notice i.e. pre-action Notice.

In the circumstance urge we the court to decline Jurisdiction and strike out the suit.

The 2nd-5th Respondents counsel in response to the preliminary objection also filed a notice of preliminary objection dated the 28th Nov, 2022. That the claimant were duly served including the counsel, and that the claimant chooses not to respond to their own objection.

That they were served with the claimants reply to the preliminary objection filed by the 1st Defendant counsel, and in turn to reply on point of law dated the 2015 December, 2022 and in it raised a sole issue for determination.

The counsel who adopted their reply on points of law as their argument in respect to the issues raised in the reply by the claimant/respondent file by the 1st Defendant/Applicant, hold that the letter relied on by the claimant. Counsel does not hold pigeon hole of the requirement of the content of the pre-action notice and urge the court to uphold their argument.

The applicant counsel in his written address raised a sole issue distilled for determination to wit:

> **"Having regard to the nature of the claimant's claim and the entire circumstances of this suit, whether this Honourable court has the requisite Jurisdiction to entertain the claimants suit"**

On the other hand, the claimant/Respondent in his written address also formulated a sole issue distilled for determination to wit

> **"whether the claimant/Respondent served the 1st Defendant/Applicant a pre-action notice before commencing this suit before the Honourable court?**

Before proceeding to answer the sole issues formulated for determination I shall first of all dual on the issue of Jurisdiction, what is the position of the law regarding the court having jurisdiction to entertain any suit brought before it.

The question of Jurisdiction of a court is a radical and crucial question of competence because if a court has no Jurisdiction to hear and determine a case, the proceedings are and remain a nullity ab-initio no matter how well conducted

and brilliantly decided they might be because a defeat in competence is not intrinsic but extrinsic to the process of adjudication.

Jurisdiction of the court is determined by the plaintiff claim as addressed in the writ of summons and statement of claim even where a federal Government Agency isinvolved like in this case. See Goldmark (Nig) Ltd V Ibafom Co Ltd (2012) 10 NWLR p. 291 and Gofar V Government, Kwara State (2007) 4 NWLR (PT. 1024) 375. Jurisdiction is very Fundamental,It is the live wire of a case which should be determined at the earliest opportunity. Jurisdiction is also a threshold matter. Where a court has no Jurisdiction to hear a case and it proceed to hear the case, whatever decision arrived at will be a nullity.

Jurisdiction is the life tone of all trials it is trite law, that it is the claim of the plaintiff that determine the Jurisdiction of the trial court to adjudicate in any matter brought before it. See Emeka V Okadigbo (2012) 18 NWLR pg. 55 SC. Therefore, in considering Jurisdiction of a trial court, the document to be considered in determining issue of Jurisdiction, in a case initiated by writ of summons and statement of claim, the Jurisdiction of the court is to be determined by the plaintiff's statement of claim. And not the defendant's

Statement of defence. See British Airways Plc V Amadi (2012)2 NWLRPART 21 (CA) and the case of A.G. Kwara State V Olawale (1993) NWLR (PT. 272) 645.

Having dwelled on the issue of Jurisdiction, I shall now proceed to the main issue before the court, that is failure to file a pre-action notice on the claimant can it rob this court of the jurisdiction to entertain this suit?

On this it is the argument of the Applicant counsel where he referred this court to the case of Nigeria Port Plc V S.E.S Ltd (2016) NWLR (Pt. 1541) pg. at 212 para A-C where the court held thus:

> **"A pre-action notice by the plaintiff to the opponent give reason why the plaintiff is instituting a legal action against the opportunity, and the purported of it, is to intimate the opponent of what to expect or to be confronted within the course of the legal proceedings. The law requires that a plaintiff must meet all the requirement contained in the relevant status, for it is by so doing that the defendant will be seized of the action contemplated against the defendant, so that**

> **the defendant can give the claim a proper consideration on the step to take i.e. Whether to contest the action or settle out of court.**

And the case of **Nigerian Ports Plc VS LTIERO (1998) 6 NWLR (PT.555) 640at 650-651** paragraph H-B where the court held as follows:

> **"a pre-action notice is a letter usually given by the intending plaintiffs solicitor to the prospective defendant, given him notice against him for the recovery of whatever money that was being owed to prospective plaintiff, or to remedy whatever the cause of action was, usually within seven day's of filing which legal proceedings would be instituted. In this case exhibit 6 cannot operate as a pre-action. Notice property so called as it did not meet the requirement of section 110(2) of the ports Act Cap 361 CFN (1990.**

Therefore, by virtue of **section 115 of the L.G. Edict 1976 of Niger State** which is embodied in the law of the Federal Capital Territory of Nigeria Vol 3 as the local Government Act 1976, No suit shall be commence against a local government until after a one month written notice of intentions of the claimant or his agent such notice shall state the cause of action the name and place of abode of the intending claimant and the relief which he claims.

That it is a condition precedent specifically provided for by legislation and as such cannot be waived. That it is trite that once there is a condition precedent and same is not followed, anything done in contravention therewith is a nullity abi-nito.

Also in the case of **Shaibu V Naicom (2002) 12 NWLR (PT. 780) 116**, where it was stated as follows:

> **"the law prescribes a condition precedent to the competence of action and where such condition precedent is not complied with, the action commenced should not be entertained by the court. In the instant case, since the appellant did not give the required 30 days' pre-action notice which is a condition precedent to competence of the action, the action should not be entertained.**

On this, the counsel submitted that, a perusal of the originating processes will reveal that the claimant herein failed/neglected to serve on the 1st defendant/Applicant the requisite pre-action notice that would have activated

the jurisdiction of the Honourable court in this case against the 1st Defendant. Further submit that the requirement of the pre-action notice is not an ouster of the constitutional right to access the court, but rather the fulfilment of the conditional right to approach the court.

Also in the case of **Dregel Energy & Natural Resource Ltd & ors V Trans International Bank Ltd & ors (2008) LPELR- 962 (CA)** where **PerAderemu JSC** pronouncing what the phrase conditional precedentment held thus.

> **"the question may be asked: what is a conditional PRECEDENT? The answer is not farfetched; when everything has happened which prima-facie, will vest in a party a certain right of action, such as the writ of summons in the instant case which contains materials of the complaint of the plaintiff/Appellants and yet in this particular case there is something further to be done or something more must happen before he is entitled to sue either by reason of provision of some statute on because the parties have expressly so agreed that something more is called CONDITION PRECEDENT"**

And in the case of **Atolagbe& Anor Vs Awunie ors (1997) LPELR- 593(SC) where Per Mohammed JSC (P.29paragraph B-D)** held that

> **"Condition precedent ordered to be done before a litigant is entitled to sue, by reason of the provision of some statute is not an ouster clause and not a device adopted by the government to prohibit a judicial Review. It is an additional formality and unless proved to be enacted with a view to inhabiting citizen from having access to courts, it is not contrary to section 6(6) (b) of1979 constitutions.**

We therefore, submit that the failure of the claimant to comply with the condition precedent to the institution of the suit by non-service of the pre-action notice makes her suit incompetent and liable to be struck out and that the Honourable court lacks the vires and jurisdiction to entertain the suit. On this he referred this court to the case of

Niger Development Co Ltd V Adamawa State Water Board & ors (2008) LPELR- 1997 (SC) where **Per Ogbuagu JSC (page 8-9 Paragraph A)** held that

> **"in my respective view, the said provision, is a condition precedent as far as suits against the 1st Defendant/Respondent is concerned. Therefore, the failure of the appellant to comply**

> **with it clearly makes the suit incompetent. Contrary to the submission of the learned counsel for the appellant, the provisions, does not seek to oust forever the jurisdiction of the court but only temporarily. It just provides that unless the condition precedent is compiled with, a complainant or plaintiff, cannot sue or initiate any action against the 1st defendant/respondent period.**

In the case of **Prince Atolagbe& Anor Vs Alhaji A. Awuni& ors (1997) 9 NWLR (PT. 522) 536, (1997) 1SCNJ1,** where there was a split decision of 5/2 and also cited and relied on in the respondent brief. Mohammed JSC in his contribution stated at pages 22-23 of the Supreme Court SCNJ inter alia as follows:

> **"condition precedent ordered to be done before suing, by reason of the provisions of some statute is not an ouster clause and are not a device adopted by the government to prohibit a judicial review. It is an additional formality and unless proved to be enacted with a view to inhibit citizens from having access to the court, is not contrary to section 6(6)(b) of the 1979 constitution.**

He finally submited that when the court finds that it does not possess the requisite vires to entertain a suit, the initiating process having been commenced without reference to the fulfilment of a condition precedent as provided for under section 115 of the local Government Edit 1976, of Niger State made applicable to the Federal Capital Territory as in the last instant suit, the proper order to make in the circumstance is an order striking out the suit. On this he referred the court to the case of **PPMC Ltd V Al-Musmoon sec Ltd (2016) 13 NWLR (PT. 1528) 69 at 78 paragraph C pg. 78-80paragraph H-A** where the court in relying on the cases of **NNPC V Fawehinmi (1998)7 NWLR (PT.559) 598** and**Odoemelam V Amadiome (2008)2, NWLR (pt. 1070) 179** stated that:

> **"where a pre-action notice is statutorily required for any action or suit, commenced without serving the required pre-action notice, is incompetent and it is liable to be struck out. And that in the instant case, by the failure of the respondent to serve the appellant the prescribed pre-action notice before filling it suit, a precondition to the competence of an action was not complied with. In the circumstance the action was struck out.**

Also that in the case of **Okolo& Anor V UBA ltd (supra) Per Tobi JSC (p.16) paragraph D-E** held that

> **"it appears to me to be the law that where a court lacks jurisdiction, the proper order to make is striking out of the action. In Okoye V Nigeria Construction and furniture Co Ltd (1991) 6 NWLR (pt. 195, 501, the supreme court held that the proper order to make where a court has no Jurisdiction to entertain an action is that of striking out"**

On the other hand, the claimants/ Respondent in reply to the notice ofpreliminary objection submitted that, the 1st defendant's Application is assertion that the claimant/Respondent did not serve the required pre-action notice, is baseless on the ground that, the claimant/ Respondent through its solicitor's notice wrote a pre-action letter dated 29th August, 2022 and served same on the executive chairman of the 1st Defendant/Applicant. The said pre-action letter was also pleaded in the applicant statement of claim. And he therefore submit that the argument that the claimant/respondent did not serve the 1st Defendant/applicant a pre-action notice is in law baseless and therefore state that the suit is competent and the Honourable court has unlimited Jurisdiction to hear and determine this suit: he further submits that pre-action notice and pre-action letter in one and the same thing. On this he referred this court to the case **of Nockling Ventures Ltd V Aroh (2020) NWLR (PT.1722) p. 74 paragraph 5** where court of Appeal held thus:

> **"issue of want of pre-action notice has been an issue of jurisdiction where it is a requirement of the law. Non-service of pre-action notices merely put the jurisdiction of a court on hold pending compliance with the pre-condition.**
>
> **In-fact, failure to serve the said notice amount to an irregularity that renders the suit incompetent. The legal insistence and jurisprudence for pre-action is to enable the defendant know in advance the anticipated action and a possible amicable settlement of the matter between the parties, without recourse to adjudication by the court. It is a harmless procedure designed essentially to stop a possible litigation, thus saving money and time of the portion. It is almost like a pre-action letter of demand emanating from the chambers of counsel for a plaintiff to a defendant, asking for specific condition to be fulfilled in order to avoid or avert litigation. The only difference between the two is that while one is a**

statutory requirement the other is not, in the sense that a plaintiff can file an action without writing a pre-action letter"

That the 1st defendant/Applicant has failed to comply with timeously by failing to file its defence or counter affidavit as the case may be, on this he referred this court to the case of **N.F.S.V. C. B. V Adegboyega (2019) 4 NWLR (PT. 1662) pg. 287 and 288 of paragraph 2 & 3** the supreme court held thus: at paragraph 3

"a party who is statutory entitled to pre-action notice but who was not served must raise it as soon as the originating process is served on it. It must be deemed to have waived the right to insist not being served with such notice after having defended the action without raising it timeously.

That assuming without conceding that the claimant/ Respondent did not serve the 1st Defendant/ Applicant a pre-action notice, the failure of the 1st Defendant/ Applicant to plead same in its statement of defence or couter claim amounts to waiver of that right. On this he referred the court to the case of **EDET V Access Bank Plc (2020) 4 NWLR (PT. 1715) 421 AT 3,** where the court of Appeal held thus:

"it is open to a defendant to waive the non-service upon him by a pre-action demand. When it is so waived, the suit can proceed to trial without the plaintiff incurring any visibility therefrom. Where the defendant elects not to raise the matter in his statement of defence he conveys to the plaintiff that it is waived. Having not raised in his pleading that the needed pre-action demand was not served on him, he ought not to be allowed by affidavit evidence to raise the matter not pleaded before the court. The use by the defendant of affidavit evidence to counter or traverse matter of facts pleaded by the plaintiff is not a correct practice procedure. In an application of this nature by the defendant, it must be presumed that all the facts pleaded by the plaintiff are correct. When the defendant disputes any of such facts, he must file a statement of defence and lead evidence at the subsequent trial in support of his case. Even if the question of jurisdiction can be at any stage, yet it still must be brought before the court by the proper procedure"

In **Edet V Access Bank Plc at page 4** the court held thus:

> **"Non-service of statutory notices is a statutory defence which must be pleaded before it can be relied on in attacking the competence of an action notice, cannot be raised by way of preliminary objection, by the party who ought to plead it as a defend a pre-action notice being a statutory defence, cannot be relied upon by a party who is entitled to relied on it but did not plead it. The defendant cannot by way of preliminary objection. Challenge the competency of the suit on that ground, having not pleaded it where the defendant failed to plead the failure to give pre-action notice and intend to raised it as an objection to the trial, he is deemed to have waived same and cannot to have waived same and cannot raise it by way of affidavit evidence"**

He finally submit that, the notice of preliminary objection filed by the 1st defendant/ Applicant challenging the jurisdiction of the court is legally misconceived and should appropriately be struck out with cost awarded against the 1st Defendant/Applicant for its application being frivolous and unnecessary wastage of the judicial time of the court.

The 2-5 defendant on its own side in reply to the preliminary objection dated 13th December,2022 the 2-5 Defendants formulated a sole issue for determination.

> **"whether in the circumstance of this case does even pre-action correspondence satisfy the requirement of pre-action notice?**

On this referred this court to the case of **Mr OgbonnayaOdoemelem V Mr I. C. Nmadinme& Anor (2008) 2 NWLR (PT. 1070) 179 at 109** where the court state as follows:

> **"the letter pleaded in paragraph 14 and 15 of the statement of claim constitute pre-action correspondence from the appellant to the Respondent However, while a pre-action notice is within the Definition of pre-action correspondent not every pre-action correspondence satisfied the requirement of a pre-action correspondence notice?**

That the claimant, counsel in his reply maintained consistently that before the action a correspondence was made to 1st defendant to justify it as a more for pre-action notice. This he referred the court to the case of **Dominic E. Ntiero U.N.PA (2008) 10 NWLR (pt. 1094) 129 at AZ where Akintan JSC** held thus:

I believe that a pre-action notice should be in the form of a letter usually written by a plaintiff or his solicitor to the prospective defendant giving him notice of intention to institute legal proceeding against him for specific reliefs.

On this he submits that the letter annex to the statement of claim dated 29th August, 2022 and receive on the 2nd September,2022 does not pass the test as stated in **Dominic E. Ntiero V NPA (supra)** nor those it states any intention to approach the court. And that in **Nigeria Port Authority V S. E. S CJP (2016) 17 NWLR (PT. 1541) 191 SC,** the Apex court state what is pre-action notice require to contain.

a. **The cause of action**
b. **The name of place of abode of the intending plaintiff**
c. **The reliefs which he intent to claim**
d. **The particulars of action.**

and that the service of pre-action notice that the party intended to be sued pursuant to a statute or an Edict is an integral part of the process for initiating proceedings. In other words, a pre-action notice connote some form of legal notification andinformation required by law, contained in an enactment, agreement or contract which requires compliance by the person who is under legal duty to put on notice the person to be notified before the commencement of any legal action against such a person.

Finally, submit, that the document relied upon as pre-action notice by the claimant fall short of the requirement of what contents of a pre-action notice should be and urge this court that their preliminary objection be upheld and the suit struckout for want of jurisdiction.

I have carefully gone through the submission of the 1st Defendant and 2-5 defendant's argument cases cited and the reply by the claimant/Respondent counsel, on this I wish to state that the requirement of pre-action notice where this is presented by law is known to have one rationale. It is to appraise the defendant beforehand of the nature of the action contemplated and to give him enough time to consider or reconsider his position in a matter as to whether to compromise or contest it. Having said this, a pre-action notice, on any state government in Nigeria, may generally be considered as procedural issues torching on the substantive Jurisdiction of a court of law to hear or try any claims before it. It is a shield in the hands of the state government that include ministries. Department public offices and agencies and a court of law will decline competence to hear any claim against local Government upon any objection by the local Government that pre-action notice was invalidly served.

In **Mobil producing (Nig) Ltd V Lasepa& other (2002) LPELR -1887**. The supreme court found that a suit commenced in defaults of service of pre-action notice is incompetent as against the party who ought to have been served with a pre-action notice provided such party challenges the competence of the suit.

Pre-action, according to a supreme court Judgement cited by **Davidson Edieye Esq** is a notice by an intending plaintiff to the state Government of the reason the intending plaintiff is instituting claims against the State Government and the purport of it is to intimate the state Government of what to expect or to be confronted with in the course of legal proceedings.

In Godwin Azubuike& Another V Government of Enugu State & Another (2013) PLELR-20381. The court of appeal found that in an action against a state Government, the pre-action notice to be valid must be served on the secretary to the government and not the attorney general of the state.

In the words of the court it will be perilous to assume that since the actions against the state can be brought against the A.G. is likely to be represented by the A.G. in the intending suit by virtue of section 66(2) of the High court law Cap 92 Enugu State, then a notice of intention to bring an action against the State or a public officer can be served in the same manner processes in a pending suit against the state or public officer is served"

In the courts, judicial reasoning, a pre-action notice is a matter clearly outside the practice and procedure of the court, in pending civil proceedings. It is a pre-action matter specially created by a state in a Language that shows clearly that it is not a matter of procedure of service of a notice; pre-action notices generally impose on an intending plaintiff against the State government mandatory duty to deliver the notice to the secretary of the State Government in claims against the State and to the public Officer himself in action against a public officer.

In the case **of Azubuike V Government Enugu State(Supra)** State that unless a pre-action notice is delivered to the secretary of the State Government in an action against the State, then the duty as prescribed in Section 11(2)(a) and (b) of Enugu State proceedings law is not discharged, similar provisions exist in the respective laws of States across Nigeria.

The court rightly found that where a state preserved a duty to be performed in a particular manner that duty can only be carried out in the manner prescribed by the State and no more.

By this case, I wish to torch light the argument of the 1st defendant/Applicant where in its submission he stated that no suit shall be commenced against a local Government until after one month written notice of intention to commence

the same, has been served upon the local Government by the intending claimant or his agent. While the claimant/Respondent in response stated that through its solicitor's office, wrote a pre-action letter dated the 29th August, 2022 and served same on the executive chairman of the 1st Defendant/Respondent and same pleaded in the applicants statement of claim, and therefore submit that argument that the claimant/Respondent did not service the 1st Defence/ Applicant a pre-action notice is in law baseless and therefore stated that the suit is in competent the court has unlimited Jurisdiction to hear and determine the suit.

Here the question I will pose is this, is the chairman of the local Government the right person to be served with the pre-action notice? Is the suit against the chairman or the local Government? Does the local government have a legal department or and a secretary in view of the decision in the case of Azubuike V Government of Enugu State(supra)? These are many question that the claimant/ Respondent has failed to address rather he stated that his office through the solicitor's office served on the chairman of the local Government in person.

Assuming but not conceding that the law says pre-action notice should be served on the local government, is service on the chairman as a person the same as the local government? On this it is the position of our law that

> **"one month written notice or intention to commence the same his been served upon the local Government by the intending claimant or his agent---**

The interpretation of the said section specifically states the claimant or his agent.

> **"the word agent means a person who acts on behalf of another person or group"**

Or rather

> **"agent means, a person who has been legally empowered to act on behalf of another person or an entity"**

In view of the above, hold that the chairman of the Area counsel qualifies as an agent who represents an entity.

Now back to the argument of the claimant counsel that he wrote a letter addressed to the chairman from the paper filed before the court and attached to the claim the only letter addressed to the chairman is the one dated the 29th August, 2022 option

"letter for consideration of Allocation/provisional of conveyance ofspaces for commercial outfit, shopsand Kiosk at Partaker Road Zuba FCT, Abuja addressed to the Executive Chairman Gwagwalada Area council Abuja FCT by Inya Mbeh David & Co legal practitioner and consultant.

The question then is does this letter qualify as a pre-action notice as envisaged by the law? The answer is certainly NO since the answer is in affirmative, meaning that the claimant counsel has not complied with the provision of the law before commencing this suit.

It is trite law that, a case must have been brought to a court in accordance with due process after satisfaction of relevant provisions on condition precedents.

Deducing from the cases cited in this ruling there are conditions precedent which are to be met before the commencement of certain actions in court and such conditions must be fulfilled by the claimant/plaintiff or applicant as the case may be.

The court in the case of **Panalpina would transport Holding AG V Jeidoc Ltd & Anor (2011) LPELR – CA.1/522/2009** held that a condition precedent is an act that is to be performed before some right, dependent thereon accrues. One of such condition precedent includes pre-action notice.

The court in the case of **Utak V Official Liquidator (2009) ALL FWLR (pt. 475) of 1774 at1791** held that where a plaintiff commences action which require the fulfilment of a condition for the commencement of the action that condition must be fulfilled before the action can be validly commenced. Where there is non-compliance with a stipulated pre-condition or setting the legal process in motion any suit instituted in contravention of that condition is incompetent to entertain the suit. The court in another case of **AGIP NIG LTD V AGIP PETROL INT. (2010) ALL FWLR (PT.520) 0119,**held that

"where by a rule of court, the doing of an act of taking a procedural step is a condition precedent to the hearing of a case, such role must be strictly followed and obeyed.

Therefore, non-compliance with a condition precedent is not a mere technical rule or procedure, it goes to the root of the case. The court will not treat it as an irregularity but as nullifying the entire proceedings. In another case of owners of the **M.V. Arabella V NA/C (2008) 11 NWLR (PT.1097) PG. 108 at 208,** held that rules of court are not mere rules but partake of the nature of subsidiary legislation by virtue of section 18(1) interpretation Act it has the force of law"

Hold therefore that non-compliance with the rules of the court the section 115 of the local Government Edict of 1976 is fatal to the case of the claimant. Hence I have to agree with the submission made by the 1-2 defendant counsel and the 5th defence counsel, and hold that the claimant haven't complied with the law, I shall strikeout this suit as it robs the court of the Jurisdiction to entertain same.

Hence this case is hereby struckout.

This is my ruling.

…….

HON. JUSTICE A. Y. SHAFA

APPEARANCE:

1. Eze S. Osinachi for the claimant.