

**SUPREME COURT OF NIGERIA**  
14TH MARCH, 1997. SC. 152/1994  
**CORAM:- L.L. KUTIGI, M.E. OGUNDARE, E. O. OGWUEGBU,**  
**S. U. ONU, Y. O. ADIO, JJSC**

THE MILITARY GOVERNOR ..... DEFENDANTS/APPELLANTS  
ANAMBRA STATE & 3 OTHERS

MICHAEL Z.C. OKPALA ..... DEFENDANT/RESPONDENT

AND

JOB EZEMUOKWE ..... PLAINTIFF/RESPONDENT

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**APPEALS** - *Interlocutory appeal - No evidence to support appellants' assertion - Concerning a particular chieftaincy custom.*

**CHIEFTAINCY MATTERS** - *Recognition of a chief - Withdrawal of the recognition - Makes the dethroned chief an ordinary citizen.*

**CHIEFTAINCY MATTERS** - *Traditional rulers - Whether there could be more than one ruler - For a community at the same time.*

**CHIEFTAINCY MATTERS** - *Notice of intention to sue the Governor - Whether plaintiff having been dethroned - Is required to give pre-action notice.*

**FACTS**

The plaintiff/respondent was the traditional ruler of Achina in Anambra State. His chieftaincy recognition was withdrawn by the State Military Governor some time in 1991. The plaintiff filed an action before the high court challenging the said withdrawal of his chieftaincy recognition. The defendants/appellants filed a motion seeking the striking out or dismissal of the suit on the ground that the plaintiff failed to give notice of intention to sue the Governor under the Traditional Rulers Law.

The trial court made findings as to the fact that the plaintiff has ceased to be a traditional ruler, but still went ahead and struck out the suit. Plaintiff's appeal to the Court of Appeal was allowed and the suit was restored to the cause list. Defendants have now appealed to the Supreme Court raising 3

issues but the ultimate court found the single issue raised by the plaintiff sufficient for the determination of the appeal.

**ISSUE FOR DETERMINATION**

*"Whether the Court of Appeal was correct in holding that the plaintiff was not a person bound to give notice to the Governor/public officers under section 26A of the Traditional Rulers Law before instituting this suit."*

**HELD** (Unanimously dismissing the appeal per lead judgment of **KUTIGI JSC**)

**No evidence to support alleged chieftaincy custom**

1. The Appellants had argued all the way that the respondent was still a traditional ruler under the Traditional Rulers Law bound to give pre-action notice under section 26A of the Traditional Rulers Law 1981 as amended. They have equally argued that a community or town may select and appoint more than one Igwe or Obi at a time. I must stress that this being an interlocutory appeal, there was no iota of evidence supporting the claim of the existence of the custom on which this assertion was based. (p. 569 C)

**Withdrawal of a chief's recognition**

2. I endorse the views expressed by Achike J. C. A. in the two extracts above. In the letter from the Ministry of Justice of counsel to the Appellants, the Solicitor-general warned the Respondent that the withdrawal of the recognition accorded to him precluded the respondent from holding himself out as the traditional ruler of Achina. On withdrawal of recognition, a dethroned or de-stooled traditional ruler translates to an ordinary citizen devoid of all vestiges of a traditional ruler. (p. 570 H & 571 F)

**Can there be more than one traditional ruler at a time**

3. There cannot be two or more traditional rulers in a community at one and the same time. (p. 571 F)

**Notice if intention to sue the Governor**

4. The plaintiff/respondent having been dethroned or de-stooled, ceased to be a traditional ruler and therefore not required to give pre-action notice pursuant to section 26A of the Traditional Rulers Law (as Amended). (p. 571 G)

**NOTABLE POINT OF INTEREST**

**ADIO JSC**

*1. Interpretation of statutes - Where the word was given a definition*

Where, as in this case, the word or expression, to be construed, is in a statute

and the word or expression has been assigned a meaning in the definition section of the statute, the intention of the law-maker is that the meaning so assigned is to be given to that word or expression in that statute unless the subject or content renders the meaning repugnant or will result in manifest absurdity. (p. 575 G)

### **REPRESENTATION**

Dilibe O. C. Amaechina (Senior Legal Officer, Anambra State Ministry of Justice) for the Appellants.

Chief J. C. Ifebunandu and T. I. Dutse for the Plaintiff/Respondent.

G. E. Ezeuko SAN with M. M. Bala for the 4th Defendant/Respondent.

### **CASES REFERRED TO**

Board of Customs v. Barau (1982) 10 S. C. 48;

Abioye. v. Yakubu, (1991) 5. N. W. L. R. (Pt. 190) 130

### **STATUTES REFERRED TO**

Traditional Rulers Law (Amendment) Edict No 2 of 1990 s. 26A

Traditional Rulers Law No. 14 of 1981 (as amended) s. 18(b)

### **LEAD JUDGMENT BY KUTIGI JSC**

The Plaintiff's claims against the defendants in the High Court are as follow:

*"1. A declaration that plaintiff was properly and validly installed and capped the Obi or Igwe of Achina in 1959 by the people of Achina and has since enjoyed and still enjoys the popular support of the majority of Achina people.*

*2. A declaration that the recognition of the plaintiff as the traditional ruler of Achina by the Military Governor of Anambra State in 1977 was valid and the certificate of recognition issue to him in November 1977 proper and in accordance with law.*

*3. A declaration that the withdrawal of the said plaintiff's recognition by the 1st defendant which was made public by press notice issued by 2nd defendant on the 26th of July, 1991, Without giving the plaintiff a hearing constituted a serious violation of his constitutional rights and the prin-*

*ciples of natural justice and is therefore null and void.*

4. A declaration that the 1st and/or the 2nd defendants and/or the government of Anambra State are not competent to prescribe for Achina people traditional rulership by rotation among the three villages of Achina contrary to the traditions and the customary law of Achina and when there was  
B no such provision in the chieftaincy constitution of the Achina community filed with the government of Anambra State and the purported prescription of rotatory rulership constitutes an abuse of power.

5. A declaration that the decision of the 1st and/or the 2nd defendant and/or the government of Anambra State that rotational rulership of Achina  
C should commence with the village of the 4th defendant which is not the traditional "Okpala" village followed by the village of the plaintiff which is the "Okpala" village constitutes a desecration of the customs and usages of Achina community, is ultra vires, and is not binding on the said community.

6. A declaration that no board of enquiry headed by the 5th defendant  
D gave the members of Achina community an open opportunity of being heard on the matter the board was appointed to investigate before submitting a report to the 2nd defendant on or about 11th June, 1991.

7. A declaration that the findings of the so-called board of enquiry as stated in the press release issued by the 2nd defendant upon which the  
E decision withdrawing recognition from the plaintiff was based amounted to an adjudication on an allegation constituting a criminal offence which infringed the Constitution of Nigeria and both the finding and the decision based thereon are null and void.

8. A declaration that as no specific charges of misconduct were laid  
F against the plaintiff and as no process was carried out by the 5th defendant to ascertain the popularity out of the plaintiff his demotion from the Obi or Igwe of Achina to that of Obi of Ebele village on ground that he never enjoyed and still did not enjoy the support of Achina community is an arbitrary show of naked power, oppressive and contrary to the provisions of the  
G traditional Rulers Edict 1981 relating to the withdrawal of recognition of a recognized traditional ruler and therefore invalid, null and void.

9. An injunction restraining the 4th defendant from usurping/and or exercising the customary functions of the Obi of Achina."

Meanwhile the 1st, and 2nd, 3rd & 5th defendants filed a Motion on Notice  
H praying the court

"For an order striking out dismissing the suit on the ground that the court has no jurisdiction to entertain the suit on the ground that the notice of intention to sue required to be served on the 1st defendant under the traditional Rulers Law (Amendment) Edict No.2 of 1990 was not served

*before the commencement of the suit."*

The motion was supported by an Affidavit and a Further Affidavit, all sworn to by one Ernest Okafor, a Senior litigation officer in the Ministry of Justice, Enugu. Paras 2, 3, 4, 5 read as follows -

"2. *That as the senior Litigation Officer I am conversant with all facts and matters touching and concerning all suits for and against the Government of Anambra State and in particular the present suit.*

3. *That I also receive all correspondences addressed to the Attorney-General or the Military Governor in respect of all suits instituted against any or all of them .*

4. *That I swear to this Affidavit on behalf and authority of the 1st, 2nd, 3rd, and 5th applicants.*

5. *That no notice of intention to sue the Governor or any of his functionary was served on the Governor or any of the Functionary as required by the traditional Rulers (Amendment) Edict 1990."*

The Plaintiff in a reaction personally swore to a Counter-Affidavit and a Further Counter-Affidavit paras. 4 -7 of the Counter-Affidavit which I consider Important read thus-

"4. *By letter dated 25th July, 1991, the 1st defendant stated that he had withdrawn my recognition as the traditional ruler of Achina under the Traditional Rulers Law with effect from the same 25th July, 1991. A photocopy of said letter is attached hereto and marked Exhibit A. I shall produce the original at the hearing.*

5. *I instituted the above suit on 29th July, 1991, after the said 1st defendant/applicant dismissed me as the traditional ruler of Achina.*

6. *I am advised by my counsel that it would have amounted to an offence punishable under the said edict for me to represent myself as a traditional ruler on or a traditional ruler of my intention to sue the 1st defendant or the 2nd, 3rd, and 5th defendants.*

7. *The applicant was serve with my writ of Summons on 29th July, 1991, and he appeared by counsel and took part fully in proceedings relating to interim injunction against the defendants without objection."*

Exhibit A referred to in para. 4 of the Plaintiff's Counter- Affidavit above is reproduced for case of reference thus-

*"Chief Job Ezemuokwe,*

*Achina Town, Aguata Local Government Area.*

#### WITHDRAWAL OF RECOGNITION

*The Military Governor of Anambra State, after due Consideration of the report and findings of the Administrative Board of Enquiry into Achina Chieftaincy dispute, is satisfied that you were never selected nor presented*

by the Achina Community to the Anambra State Government and also that you never enjoyed and still do not enjoy the popular support of the Achina Community.

2. For the foregoing reasons and in the interest of peace, order and good government, the Military Government has with effect from 25th July 1991, withdrawn your recognition as the Igwe of Achina. The Military Government has further decided to recognize Mr. M. Z. C. Okpala as the traditional Ruler/Igwe of Achina with effect from the same 25th July, 1991. You are hereby directed to return the Certificate of recognition irregularly presented to you and have the Certificate deposited with the Chairman of Aguata Local Government Council within 7 (seven) days of the receipt of this letter.
3. You are advised to comply accordingly.

(Sgd) S. O. O. OSSAI

Director-General

for: Deputy Governor"

- D Exhibit A was confirmed by the Defendants when they also in their Further Affidavit exhibited the Anambra State Government Gazette No. 33 Vol. 16 dated 18th August, 1991 particularly A. S. L. N. No 68 of 1991 and A. S. L. N. 69 OF 1991, which respectively withdrew the recognition from the plaintiff as the traditional ruler of Achina Town Community and recognizing the 4th defendant (Michael Z. C. Okpala) as the new Igwe in replacement thereof.

The undisputed facts therefore were that the Plaintiff was in 1977 accorded recognition as the traditional ruler, Igwe or Obi, of Achina by the then Military Governor of Anambra state pursuant to the Traditional Rulers Law of that State. On the 25th of July 1991, another Governor of Anambra State, the 1st defendant, by letter (Exhibit A) withdrew the recognition from the plaintiff as the traditional ruler of Achina and ordered him to deposit his Certificate of Recognition with the Chairman, Aguata Local Government council within 7 days. In the same letter the 1st defendant informed the plaintiff that he had accorded recognition to the 4th Defendant as the Traditional Ruler of Achina town also with effect from 25th July, 1991. Aggrieved by the said letter of withdrawal of recognition, plaintiff institutes this action.

The motion was argued and counsel on all sides addressed the court. In a reserved ruling, the learned trial judge identified five issues for determination. Only two of them are relevant for the purposes of this appeal as follows:-

- H 1. Whether in any town or community there can be two (2) traditional rulers - one recognized and the other not recognized.
- 2., Whether the Plaintiff belongs to the class of persons envisaged under section 26A of the Traditional Rulers (Amendment) Edict, 1990 to give notice of intention to sue the 1st defendant.

On issue (1) the learned trial judge held rightly in my view on page 43 the record thus -

*"The issue is therefore resolved that in any town or community there cannot be more than one traditional ruler - one recognized and the other not recognized."*

On issue (2) above, that is what he said on page 45 of the record -

*"it is my view that as long as recognition of a traditional ruler remains withdrawn, he can no longer perform any of the functions of a traditional ruler within the context of the Traditional Ruler's Law. Therefore the requirement for the giving of notice applies to him not because he is a traditional ruler but solely because he seeks redress within that law and must comply with the provisions of that law."*

Further down on page 46 he opined thus -

*"A notice before a claim may enable the Governor to reconsider his reasons for withdrawing the recognition in the first place which may obviate the need for any action by the plaintiff. It is my view that any plaintiff is obliged to serve notice of intention to sue the 1st defendant not because he is a traditional ruler but solely on account of the fact that the nature of his claim and the reliefs he seeks come within the context of the provisions of the Traditional Rulers Law No. 14 of 1981 as amended by Section 26A of the Traditional Rulers law (Amendment) Edict 1990 and he cannot go outside the law to institute his claim..... I am satisfied that failure of the Plaintiff to serve Notice of Intention to sue the 1st defendant has ousted the jurisdiction of the court. Accordingly the prayer to strike out the suit is granted and the suit is hereby struck out."*

It is abundantly clear therefore from the Ruling of the learned trial judge above that the following finding of facts were made amongst others -

1. That when the plaintiff instituted this suit, he was no longer a traditional ruler under the Traditional Rulers Law (as amended);

2. That there cannot be two traditional rulers in a town or community at one and the same time.

Suffice it at this stage to state timeously and categorically too, that the Defendants/Applicants did not find it necessary to appeal against any of the above findings of the learned trial judge which were later confirmed by the Court of Appeal. Of course, they got what they wanted. The case was struck out by the high Court.

Dissatisfied with the ruling of the High Court, the Plaintiff appealed to the Court of Appeal, Enugu Judicial Division. The thrust of the attack was that the learned trial judge having made the vital finding that the Plaintiff was not a traditional ruler, it was contrary to that finding for the same judge to hold that

the plaintiff was obliged to give notice of intention to sue, moreso, when the Governor and or other defendants did not appeal against the finding of the trial judge that the plaintiff is not a traditional ruler. It was also contended that no provision of Traditional Rulers Law enjoins a person not a traditional ruler, to give any notice of intention to sue the Ist defendant.

B In a well considered judgment the Court of Appeal unanimously agrees with the finding of the learned trial judge that there cannot be more than one traditional ruler at any given time in any given community or town. It also agreed with him that the plaintiff is not a traditional ruler and consequently he was not obliged to comply with the provisions of Section 26A of the traditional Rulers Law (as amended). It however, disagreed with the learned trial judge that merely because of the nature of the claims herein the plaintiff was still bound to comply with section 26A of the law.

The Court of Appeal therefore allowed the appeal and restored the case to the general Cause List to be heard by another judge of the high Court.

D Aggrieved by the decision of the Court of Appeal, the 1st, 2nd, 3rd, & 5th Defendants, hereinafter called the Appellants, have appealed to this Court. The Plaintiff will also from henceforth be referred to as the Respondent. At the hearing of the appeal on 16/12/96 learned counsel for the 4th defendant Mr. G. E. Ezeuko SAN, informed the court of the death of his client, the 4th Defendant. He therefore asked that the name of the 4th Defendant be struck out. Counsel on the other sides not opposing, his request was granted and the name of the 4th Defendant was struck out accordingly.

In compliance with the Rules of court the parties filed and exchanged briefs of argument which were adopted and relied upon at the hearing.

F The Appellants in their brief identified three issues for determination as follows -

1. *Whether having regard to Section 2 and other Sections of the Traditional Rulers law, 1981, which Sections must in any event be read together, there can be two or more or only one traditional ruler in a town or community.*

2. *Whether on withdrawal of the recognition of a recognized tradition ruler, the affected person remains traditional ruler or becomes an ordinary village within the meaning of section 2 of the traditional Rulers Law 1981. Put the other way - what is the status of a recognized traditional ruler whose recognition was withdrawn by the Government. Does he continue to retain the status of a traditional ruler which he was or held before his recognition? Or does he translate to ordinary village devoid of all vestiges of a traditional ruler merely because his Government recognition was withdrawn?*

3. *Whether the plaintiff is a traditional ruler within the meaning of*

*section 2 and other sections of the traditional Rulers Law 1981 and thus required to give pre-action notice pursuant to section 26A of the Traditional Rulers Law 1981 and if so whether his failure to do so was not fatal to the suit instituted by him without such pre-action.*

Mr Anyamene SAN Learned Counsel for the respondent has quite rightly in my view, submitted only one question as arising for determination from all the five grounds of appeal filed by the Appellants thus -

*"Whether the Court of Appeal was correct in holding that the plaintiff was not a person bound to give notice to the Governor/public officers under section 26A of the Traditional Rulers Law before instituting this suit."*

I have carefully read the briefs filled by the parties in this appeal and it is clear to me that the Appellants, save for a repetition of the arguments they made as applicants in the High Court, and as the respondents in the Court of Appeal, have nothing new to advance in this Court. **The Appellants had argued all the way that the respondent was still a traditional ruler under the Traditional Rulers Law bound to give pre-action notice under section 26A of the Traditional Rulers Law 1981 as amended. They have equally argued that a community or town may select and appoint more than one Igwe or Obi at a time. I must stress that this being an interlocutory appeal, there was no iota of evidence supporting the claim of the existence of the custom on which this assertion was based.**

Now, section 26A of the Traditional Rulers Law (Amendment) Edict No. 2 of 1987 reads -

*"26A. A traditional ruler shall not commence a suit against the Governor or a Government functionary, whether or not the cause of action arose from any act of commission or omission in the execution by the Governor or such Government functionary of any provision of this law, until one month at least after a written notice of intention to commence the suit shall have been served upon the Governor or the Government functionary by the traditional ruler or his agent; and such notice shall clearly and explicitly state -*

- (i) the cause of action;*
- (ii) the particulars of the claim;*
- (iii) the name and place of abode of the traditional ruler; and*
- (iv) the relief sought by the traditional ruler."*

A traditional ruler is defined under section 2 of the Traditional Rulers Law 1981 to mean -

*"a person selected and appointed as "Igwe" or "Obi" of a town or community in accordance with this law, who, on his recognition by the Governor, shall be styled or known as a recognized chief".*

On the effect of the withdrawal of Respondent's recognition as a traditional

ruler, the Court of Appeal (per Achike L. C. A.) on page 70 of the record said -

"The Kernel of the controversy between the parties is, what is the effect of the withdrawal of appellant's recognition as a traditional ruler by the Governor? In law, the appellant, from the moment he was so communicated of the withdrawal of recognition as traditional ruler, ceased to be a traditional ruler. All incidents appurtenant to the traditional rulership automatically terminated henceforth as they related to the appellant. It is perhaps pertinent to put it lucidly and bluntly (without any attempt to be disrespectful) that the appellant thereafter became an ordinary village of Achina having been stripped of all vestiges of a traditional ruler..... Being destooled or derobed of the vestiges of a traditional ruler, and therefore abruptly and traumatically translated into an ordinary villager, the appellant could only institute an action as he did, as an ordinary citizen or person ..... In my view, any person who is not a traditional ruler within the meaning of section 2 of the Law cannot be expected to institute an action in compliance with the provisions of section 26A."

On the plurality theory the Court of Appeal (also per Achike J. C. A.) said on page 66 of the record -

"Concluding, Counsel submits that law admits of possibility of more than one traditional ruler but only being a recognized traditional ruler. With respect that argument is untenable. It completely undermines the definition of a tradition ruler under section 2 of the Law. The words of section 2 are manifestly clear and the basic canons of interpretation do not permit that one should read or introduce extraneous words to the provisions of the law where the provisions of that law are not ambiguous. The provisions of the law must be given their ordinary or natural or literal meaning. Having misconceived the clear words of section 2, the learned Director of Civil Litigation wrongly imagined or theorized on the possibility of two traditional rulers within a community ..... I am firmly of the view that it will not be in consonance with the provision of section 2 for two persons within a community to hold themselves out as traditional rulers at one and the same time ..... I therefore agree with the learned trial judge that there cannot be more than one traditional ruler at any given time in any given community or town within the meaning of the term traditional ruler under section 2 of the law."

**I endorse the views expressed by Achike J. C. A. in the two extracts above. In the letter from the Ministry of Justice of counsel to the Appellants, the Solicitor-General warned the Respondent that the withdrawal of the recognition accorded to him precluded the respondent from holding himself out as the traditional ruler of Achina. The letter reads-**

"Chief Ezemuokwe  
c/o His Solicitor  
A. N. Anyamene Esq., SAN,  
113 Chime haven - Enugu  
Enugu State.

Flagrant breach of traditional Ruler's Law

The attention of this Ministry has been drawn to a publication in Satellite newspaper of October 16th, 1991 captioned "Igwe urges subject to join hands with government" where in you still hold yourself out as the Traditional Ruler of Achina. This is notwithstanding the withdrawal of your recognition by the Anambra State Government. The order of injunction issued on 5th August, 1991 and confirmed on 5th September, 1991 by the Enugu High Court does not in any way affect the Government withdrawal of your recognition which still stands. Consequently you are precluded from holding yourself out as the traditional Ruler of Achina and it is a criminal offence to do so,

(sgd) J. C. S. NJELITA

Solicitor-General/ Directors-General."

I believe it is common sense which accords with the law that a dethroned or de-stooled ruler cannot continue to answer as ruler after such dethronement. Further, the Government himself in his letter of withdrawal of recognition (Exhibit A) above, expressly stated therein that he was satisfied that the respondent was "never selected nor presented by the Achina community to the Anambra State Government" for recognition. Appellant's counsel would therefore clearly have appeared to be contradicting their clients' case.

In summary, I answer the three questions posed by the Appellants thus -

**Issue 1. There cannot be two or more traditional rulers in a community at one and the same time.**

**Issue 2. On withdrawal of recognition, a dethroned or de-stooled traditional ruler translates to an ordinary citizen devoid of all vestiges of a traditional ruler.**

**Issue 3. The plaintiff/respondent having been dethroned or de-stooled, ceased to be a traditional ruler and therefore not required to give pre-action notice pursuant to section 26A of the Traditional Rulers Law (as Amended).**

All the issues having been decided against the Appellant, the appeal must be dismissed. It is accordingly dismissed with one thousand naira (N1,000.00) costs in favour of the plaintiff/respondent.

**OGUNDARE JSC**

I agree entirely with the reasoning and conclusion reached by my learned brother, Kutigi JCS in the judgment just delivered by him. I have nothing more to add.

I too dismiss the appeal with costs as assessed by him.

B

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**OGWUEGBU JSC**

I have had the advantage of reading in draft the judgment delivered by my learned brother Kutigi, J. S. C. I completely agree with him. I wish however C to say a few words in amplification of his reasons.

The Military Governor of Anambra State by a letter dated 25th July, 1991 withdrew the recognition of the respondent as the Traditional Ruler of Achina with effect from 25:7:91. The respondent was informed in the same letter that the Military Governor had further decided to recognize Mr. M. Z. C. Okpala as D the traditional Ruler/Igwe of Achina with effect from the same date. As a result, the respondent as plaintiff instituted civil proceedings against the Military Governor and four others including Mr. M.Z. C. Okpala claiming various declaratory reliefs and an order of injunction.

The defendant attempted to nip the action in the bud by filing a motion E for an order striking out or dismissing the suit on the ground that the court has no jurisdiction to entertain it because the notice of intention to sue required to be served on the defendants under the traditional Rulers (Amendment) Edict No. 2 of 1990 was not served on them before the commencement of the suit.

The learned trial judge after making two vital findings favorable to the F respondent which would have been the end of the application, curiously granted the same and struck out the suit. The plaintiff's appeal to the Court of Appeal, was allowed against the ruling of the learned trial judge was allowed by that court. The defendants who felt aggrieved by that decision appealed to this court.

G From all the issue formulated in the respective briefs of argument filed by the parties, one issue identified in the respondent's brief appeals to be the only issue whose resolution will determine the appeal one way or the other. The main issue therefore is whether the plaintiff belongs to the class of the persons envisaged under section 26A of the traditional Rulers Law (Amendment) Edict, 1990 to give notice of intention to sue the Ist, 2nd, 3rd and 5th H defendants on record.

The issue revolves around the construction of section 2 of the traditional Rulers law No. 14 of 1981 and section 26A of the Traditional Rulers law (Amendment) Edict No. 2 of 1990. In Section 2 of law No. 14 of 1981, a traditional ruler

is defined to mean :

*"a person selected and appointed as "Igwe" or "Obi" of a town or community in accordance with this law, who, on his recognition by the governor, shall be styled or know as a recognized chief".*

(The underlining is for emphasis).

Section 26A of the Amendment Edict No. 2 of 1990, reads:

*"26A. A traditional ruler shall not commence a suit against the Governor or a Government functionary, whether or not the cause action arose from any act commission or omission in the execution by the Governor or such Government functionary of any provision of this law, until one month at least after a written notice of intention to commence the suit shall have been served upon the Governor or the Government functionary by the traditional ruler or his agent; and such notice shall clearly and explicitly state ....."*

A traditional ruler of a town or community as rightly submitted in the respondent's brief of argument is a creature of the traditional Rulers law, 1981 and this law prescribes the method of his selection, appointment, recognition, functions and privileges. There cannot therefore be a recognized traditional ruler and an unrecognized traditional ruler within a community as the appellant's arguments suggest. When the recognition of the respondent as the Traditional Ruler/Igwe of Achina was withdrawn with effect from 25:7:91 which is the date of letter conveying the notice of the withdrawal of recognition and by the same letter, he was notified of the recognition Mr . Z. C. Okpala as the traditional Ruler/Igwe of Achina also with effect from 25:7:91, the respondent let alone under the Traditional Rulers Law of Anambra State.

On the effect of the withdrawal of the recognition of the respondent a traditional ruler, the court below observed as follows:

*"1. In law, the appellant, from the moment he was so communicated of the withdrawal of recognition as a traditional ruler, ceased to be traditional ruler. All incidents appurtenant to the terminated henceforth as they relate to the appellant..... Being de-stooled or de-robed of the vestiges of a traditional ruler, and therefore abruptly and traumatically translated to an ordinary villager, the appellant could only institute an action, as he did: as an ordinary citizen or person....."*

I cannot agree more with the above conclusion of the court below. It summarizes the legal, social and psychological effects on the respondent of the withdrawal of his recognition by the Governor of Anambra State.

Reading through the Traditional Rulers Law No. 14 of 1981 and the amendment thereto, the provisions emphasize the concept of one traditional ruler for each town or autonomous community and section 81(b) in particular, provides that:

*"18(b) any person who ..... allows himself to be installed as a traditional ruler of that town or community in the stead of the person so recognized is guilty of an offence, and on conviction is liable to imprisonment for twelve months or a fine of one thousand and fine."*

Exhibit 3 is annexed to the further counter-affidavit in opposition to the B motion to strike out or dismiss the suit deposed to be one Lorreto Orienma Etoniru legal practitioner in the Chambers of Anyamene, Esq.. S. A. N. It is letter dated 4:3:92 and addressed to the respondent by the Solicitor-General, Ministry of Justice, Anambra State. It reads:

**"FLAGRANT BREACH OF TRADITIONAL RULERS LAW.**

C *The attention of this Ministry has been drawn to a publication in Satellite newspaper of October 16th, 1991 captioned "Igwe urges subject to join hands with government" where in you still held yourself out as the Traditional Ruler of Achina. This is notwithstanding the withdrawal of your recognition by the Anambra State Government. The order of injunction D issued on 5th August, 1991 and confirmed on 5th September, 1991 by the Enugu High Court does not in any way affect the Government withdrawal of your recognition which still stands. Consequently, you are precluded from holding yourself out as the Traditional Ruler of Achina and it is a criminal offence to do so,*

E *(sgd) J. C. S. Njelita*  
*Solicitor-General/ Directors-General."*

The above letters sums up the legal effect of the withdrawal of the respondent's recognition as the Traditional Ruler of Achina and it comes from an organ of the same government that is arguing the contrary in this appeal. The learned F trial judge made two crucial findings of fact which were accepted by the court below, namely:

*(a) that the plaintiff was not a Traditional Ruler required to give notice of intention to sue and*

*(b) that the Governor having withdrawn the recognition of the plaintiff G as the Igwe and Traditional Ruler of Achina is not obliged to give the statutory one month's notice of intention to sue.*

He should not have wavered in dismissing the application. He fell into a grave error by striking out the suit for an inexcusable reason. The respondent is not a traditional ruler who is required to give the statutory notice under section H 26A of the Traditional Ruler Law (Amendment) Edict No. 2 of 1990.

For the above reasons and the more detailed reasons contained in the judgment of my learned brother Kutigi, J.S.C. I too would dismiss the appeal and affirm the decision of court below. This appeal is frivolous and vexatious to say the least. I endorse the orders as to costs made in the lead judgment .

### ONUJSC

I have had the advantage to read before now the judgment of my learned brother Kutigi, J. S. C. just delivered. I am in complete agreement with his reasoning and conclusion and have nothing further to add thereto.

B

### ADIOJSC

I have had the opportunity of reading in draft, the judgment just delivered by my learned brother, Kutigi, J. S. C. and I agree that the appeal must be dismissed. I dismiss it and abide by the order for costs.

C

In my view, the main issue was as follows:

*"Whether the Court of Appeal was correct in holding that the plaintiff was a person bound to 26A notice to the Governor/public officers under section 26A of Traditional Rulers law before instituting the suit."*

The submission made for the appellants was that the respondent was still a traditional ruler under the Traditional Rulers Law, 1981, as amended. The provisions of section 26A of the Traditional Rulers law (Amendment) Edict, No. 2 of 1987, are as follows:-

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*"26A. A traditional ruler shall not commence a suit against the Governor or a Government functionary, whether or not the cause action arose from any act commission or omission in the execution by the Governor or Government functionary of any provision of this law, until one month at least after a written notice of intention to commence the suit shall have been served upon the Governor or the Government functionary by the traditional ruler or his agent; and such ....."*

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The law has a definition or interpretation section in which the expression 'traditional ruler' is defined as follows:-

*"a person selected and appointed as "Igwe" or "Obi" of a town or community in accordance with this law, who, on his recognition by the Governor, shall be styled or known as a recognized chief".*

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Where, as in this case, the word or expression, to be construed, is in a statute and the word or expression has been assigned a meaning in the definition section of the statute, the intention of the law-maker is that the meaning so assigned is to be given to that word or expression in that statute unless the subject or content renders the meaning repugnant or will result in manifest absurdity. See Board of Customs v. Barau, (1982) 10 S. C. 48; and Abioye. v. Yakubu, (1991) 5. N. W. L. R. (Pt. 190) 130.

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As a result of the withdrawal of the respondent's recognition, as a traditional ruler, by the Governor, the respondent became a common man or, as

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Achike, J. C. A., put it, "an ordinary villager". He could no longer be styled or known as a recognized chief. It is only a person who has been selected and appointed as "igwe" or "obi" of a town or community in accordance with the Law, and whose recognition by the Governor under the law has not been withdrawn, that is a traditional ruler within the meaning of the expression in B the law. Consequently, the provisions of section 26A of the law are not applicable to the respondent or to the action instituted by him as he is not a traditional ruler.

It is for the foregoing reasons and the more detailed reasons given in the lead judgment of my learned brother, Kutigi, J. S.C., that I agree that this C appeal must be dismissed. I hereby dismiss it and abide by the order for costs.

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