

KINGS LAW REPORTS

(ALL SC/NOVEL CA)

(2002) KLR VOL 12 PART 148 pp. 3021 - 3166

DECEMBER 2002

Dedicated to the King of kings

O. O. NOEL ESQ. Founder/Publisher

C. L. Onwuegbuna Esq. Chief Editor

INDEX OF CASES REPORTED

1. Attorney-General of Ogun State v. Attorney-General of the Federation p. 3021
2. Awara v. Alalibo p. 3075
3. Udeagu v. Nnadi p. 3135

COURT OF APPEAL

1. Abdulkadiri v. Ali p. 3157 CA

ii INDEX OF SUBJECT MATTER IN (2002) 12 KLR

ACTIONS - Claim - Proof - Since claim for injunction is not founded on declaration sought - And with no facts in support - The claim must be refused (H3) A-G Ogun State v. A-G Federation p. 3021

ACTIONS - Claim - Refusal - Basis - Federation account - Claim for account from 1999 and copies thereof - The claim is refused - Since it is wide and impossible to supervise (H6) A-G Ogun State v. A-G Federation p. 3021

ACTIONS - Claims - Basis - It is clear from claim before court - That Aba Boko is the settlement in dispute - As it is wrong to impute what respondents did not make as their case (H2) Awara v. Alalibo p. 3091

APPEALS - Concurrent findings - Supreme Court will not interfere - Since no exceptional circumstances are shown - To justify such interference (H5) Udeagu v. Nnadi p. 3135

APPEALS - Evidence - Reevaluation - Correctness of - Court of Appeal rightly reevaluated the evidence - By being satisfied that respondents had proved title to the land (H3) Awara v. Alalibo p. 3075

APPEALS - Issues for determination - Value of - Value of an issue lies in the effect of its resolution in judgment - As same is valueless if the resolution - Will not affect result of an appeal (H2) Udeagu v. Nnadi p. 3135

CONSTITUTIONAL LAW - Revenue allocation - Distribution - Local Government Account - Under the 1999 Constitution s. 162(5) - Federal Government cannot validly make direct payment into the account (H1) A-G Ogun State v. A-G Federation p. 3021

CONSTITUTIONAL LAW - State Joint Local Govt Account - Creation - Under 1999 Constitution s. 4(7) - State House of Assembly is empowered to create the account (H2) A-G Ogun State v. A-G Federation p. 3021

CONSTITUTIONAL LAW - Tax revenue - Claim - Refusal - Basis - Claim 5 is refused as there is no claim like s. 162(i)(iv) but rather s.

162(1)(4) - And National Assembly is yet to pass law in respect of the claim (H4) A-G Ogun State v. A-G Federation p. 3021

JUDGMENTS - Ratio decidendi - Failure to set out seriatim - Judgment is not bad because judge fails to set out - Reasons on each complaint (H4) Udeagu v. Nnadi p. 3135

LAND LAW - Title - How to put in issue - Title can be put in issue expressly by pleading ownership - Or impliedly by claiming damages for trespass and injunction (H1) Udeagu v. Nnadi p. 3135

LAND LAW - Title - Proof - Plaintiff must satisfy court that he is entitled to the declaration he seeks - Based on evidence brought by him (H4) Awara v. Alalibo p. 3075

LAND LAW - Title - Root of - Proof - Appellant must plead how the land devolved on his father and subsequently to him - To the exclusion of others (H3) Udeagu v. Nnadi p. 3135

ORDERS OF COURT - Grant of - Principles - Where nature of order sought is vague - It can not be granted - As orders are not made in vacuo (H5) A-G Ogun State v. A-G Federation p. 3021

PLEADINGS - Binding nature of - Parties are bound by their pleadings - And evidence which is at variance with averments in pleadings - Must be disregarded by court (H1) Awara v. Alalibo p. 3075

COURT OF APPEAL

STAY OF EXECUTION - Affidavits - Averments - Since respondent's averments of his means - To refund judgment debt if appeal fails were not challenged - Stay will not be granted (H4) Abdulkadiri v. Ali p. 3157 CA

STAY OF EXECUTION - Grant - Basis - Interest of justice is the overriding issue - Substantial ground may constitute special circumstance - If it arises in a decision where stay can be granted (H3) Abdulkadiri

iv **INDEX OF SUBJECT MATTER IN (2002) 12 KLR CA**

v. Ali p. 3157 CA

STAY OF EXECUTION - Grant - Basis - Poverty is not a special ground for granting stay - Except where the effect deprives appellant of means of prosecuting his appeal (H1) Abdulkadiri v. Ali p. 3157 CA

STAY OF EXECUTION - Grant - Poverty - Proof - Applicant must prove that he has no resources - To prosecute his appeal - If he pays the judgment debt (H2) Abdulkadiri v. Ali p. 3157 CA

INDEX OF STATUTES & RULES

Allocation of Revenue (Federation Account) Act, LFN 1990, ss. 3 and 6 A-G Ogun State v. A-G Federation p. 3021

Constitution of the Federal Republic of Nigeria 1979, s. 274 A-G Ogun State v. A-G Federation p. 3021

Constitution of the Federal Republic of Nigeria 1999, ss. 80, 81, 162, 313, 314 and 315 A-G Ogun State v. A-G Federation p. 3021

Evidence Act Cap 112 LFN 1990, ss. 34 and 45 Awara v. Alalibo p. 3075

Revenue Allocation and fiscal Commission Act, L.F.N. 1990, s. 2 A-G Ogun State v. A-G Federation p. 3021