

**SUPREME COURT OF NIGERIA**  
11TH FEBRUARY, 2005. SC. 368/2001  
**CORAM:- M. L. UWAI S CJN, S. U. ONU, A. O. EJIWUNMI,**  
**N. TOBI, D. O. EDOZIE, JJSC**

1. RIVERS STATE GOVT. OF NIGERIA  
2. THE ATTORNEY GENERAL ..... APPELLANTS  
OF RIVERS STATE OF NIGERIA  
AND  
SPECIALIST KONSULT ..... RESPONDENT  
(SWEDISH GROUP)

---

PRACTICE & PROCEDURE - Undefended list - Affidavit of service - O.  
60 High Court Rules of Lagos State - Makes filing affidavit evidence of  
service mandatory (H1)

ACTIONS - Service of process - Liaison Office of a State - Service  
effected therein - Is deemed proper (H2)

SUMMARY JUDGMENTS - Undefended list - Debt - Where plaintiff  
claims a different thing - From that previously agreed - It is no longer  
recovery of debt suit simpliciter (H3)

ACTIONS - Venue - Place of business - Of a State Government - Cannot  
be its Liaison Office - In view of s. 3 (3) 1999 Constitution (H4)

ACTIONS - Venue - Contracts - Residence or place of business of a  
defendant - Is the proper place - To sue him for breach of contract (H5)

**FACTS**

Before the High Court of Lagos State the plaintiff/respondent filed  
an action against the defendant/appellant under the undefended list proce-  
dure. Respondent claimed the sum of USD3,138,122.81 being outstand-  
ing fees due on work already executed on behalf of the Rivers State

Government since April, 1995, and interest on the said amount. Address of the Rivers State Government Liaison Office, Victoria Island Lagos was endorsed on the writ as appellant's address for service. The writ was filed in June, 2000. In November, 2000, the trial Judge entered judgment in favour of the respondent. The case of the appellants is that they did not participate in the proceedings as they did not have actual notice of the case.

The first actual notice appellants had was when they were served with a Garnishee Order Nisi over their bank accounts. The appellants appealed against the judgment to the Court of Appeal, sought and obtained a stay of execution. But their appeal was dismissed. Being aggrieved they have further appealed to the Supreme Court.

**ISSUE FOR DETERMINATION**

(1) whether the court below was right to have held that the appellants were properly served, and secondly, that the trial court had the jurisdiction to determine the case.

**HELD** (Unanimously allowing the appeal per **EJIWUNMI JSC**)

***Undefended list - Affidavit of service***

1. It is my humble view following a careful perusal of this order that it is imperative that a plaintiff who wishes to proceed against a defendant for a claim under the Undefended List must provide at least affidavit evidence that he served each of the defendants with the Writ of Summons and the affidavit filed with the Court Registry and other documents he wished to rely upon to obtain judgment. It was alleged that a certain Mrs. Marcus of the Liaison Office of the appellant was served with the Writ of Summons and the supporting documents. However, I have looked through the record and I cannot find any affidavit filed by the respondent that each of the appellants were duly served with the documents as stipulated under Order 60 (supra). (p. 719 E)

***Service of process - Liaison Office of a State***

2. Further, though it was not satisfactorily established that service was effected by an affidavit as observed, it is in any event now settled that

where a service is effected in the Liaison Office it is presumed that that service was properly effected. It must be noted that in several of the cases that had been brought to this court, parties were apparently served through the Liaison Offices of their various States and they duly responded to such service without taking any exception to the fact that they were served through their State Liaison Officer. In the instant case, there is uncontradicted evidence that the appellants were served at No. 26 Bishop Oluwole Street, the Liaison Office of the Rivers State Government at the time. The only reasonable inference that can be raised is that the appellants were duly served at the said Liaison Office, No. 26 Bishop Oluwole Street, Victoria Island, with the court processes as claimed by the respondent. I must therefore resolve this issue against the appellants. (p. 720 C)

***Undefended list - Debt***

3. A careful reading of these paragraphs seem to show that a sum of N4,500,000.00 was agreed as the debt. But clearly the respondent, has by its Writ of Summons gone ahead to claim the sum of USD3,138,122.81, and which the appellants are now disputing. The court below took the view that the appellants should have raised that as a defence to the action when they were served with the Writ of Summons. The position taken by the court below is no doubt understandable having held that they were properly served with the Writ of Summons. But having regard to what I have said concerning the service of this Writ of Summons, I do not think that the court below was right to have held that the actions sounded in debt. It is enough to say that having recognized that there is a dispute as to the sum claimed, the court below should not have held that a contract no longer subsists between the parties. It seems to me that as the dispute as to terms of settlement has not been resolved, it cannot be said that the action can be described as a recovery of a debt due simpliciter. (p. 722 C)

***Place of business - Of a State Government***

4. The next question is, whether it can rightly be said that the appellants were doing their business in Lagos merely because they had a Liaison

Office at 26 Bishop Oluwole Street, Victoria Island, Lagos where they were purportedly served. I think not. In my respectful view, it is quite untenable for a court to hold that a State Government is operating from a Liaison Office. Nor can it be similarly considered tenable and within good reason to hold also that the Attorney-General of a State is operating and had its offices within the confines of a Liaison Office. In my respectful view, it is preposterous to hold that a State Government and principal officers of a State such as the Attorney General are carrying out the businesses of their offices in a Liaison Office. In any event, the determination of where the appellants have as their business place ought to be determined by virtue of the provisions of Section 3 (3) of the Constitution of Nigeria 1999 which states inter alia, that the headquarters of each State shall be known as the Capital City of that State: and which in the case of Rivers State is Port Harcourt. (p. 722 G)

***Proper place to sue a defendant for breach of contract***

5. It is however my view from a careful reading of the affidavit and in the other supporting documents that all the transactions that resulted in this action took place in Port Harcourt. With what I have said above, I am afraid it is not possible for me to subscribe to the view held by the court below that the appellants were carrying on their business in Lagos.

This takes me to the provisions of Order 2 Rule 3 of the High Court of Lagos (Civil Procedure) Rules, 1994 which reads:-

*“All suits for the specific performance or upon breach of any contract may be commenced and determined in the Judicial Division in which such a contract ought to have been performed or in which the defendant resides.”*

By the above provisions of Order 2 Rule 3, it is manifest that this action having regard to my conclusion, that the appellants reside and have their business in Port Harcourt, it is my view that had the court below adverted to the above provisions and the facts as analyzed above, it would not have held that the action was properly commenced and heard in Lagos. It follows therefore that the decision of the court below that the appellants reside and do their business in Lagos is hereby overturned. (p. 723 D)

## NOTABLE POINTS OF INTEREST

### EJIWUNMIJSC

#### *1. Actions - No profit in shutting out the other party*

It is unfortunate though, that this matter ought to have been properly concluded before now had the respondent taken proper steps as provided by the Rules to prosecute the claim. I think I ought to add that it is not always profitable for a seeker after justice to do so by shutting out the other party unfairly in the determination of the matters in dispute. (p. 723 H)

C

### TOBIJSC

#### *2. Service through Liaison Office is proper*

Communications are usually sent through liaison offices to their State Governments in named cities and towns. Can the 1st appellant really argue that it has never received any communication by way of letters and all that through the Lagos Liaison Office? Why should a Writ of Summons be different? The point by learned Senior advocate for the appellants sounds rather technical and abstract. With respect, I do not agree with him that service on the liaison office of the 1st appellant is not personal service. The liaison office is clearly an administrative arm of the 1st appellant and service can be effected through it. I am of the view that service on the liaison office of the 1st appellant, if there is service at all, is proper personal service on the appellants, and I so hold. (p. 726 C)

D

E

F

### EDOZIEJSC

#### *3. Courts - Conditions that confer jurisdiction*

A court is only competent to exercise jurisdiction where the following conditions are satisfied:-

G

(1) The court is properly constituted as regards members and qualifications of the members of the bench and no member is disqualified for one reason or another;

H

(2) The subject matter of the case is within its jurisdiction and there is no feature in the case which prevents the court from exercising jurisdiction; and

(3) The case comes before the court by due process of law and upon the fulfillment of any condition precedent to the exercise of jurisdiction. Any defect in competence is fatal for the proceedings are a nullity however well conducted and decided; the defect is extrinsic to the adjudication. See *Madukolu v. Nkemdilim supra*, *Sken Consult Nig. Ltd. v. Godwin Ukey supra* at p.62. (p. 734 A)

### **REPRESENTATION**

H. Oden Ajumogobia, SAN., A-G. Rivers State, (with him R. D. Godwins, D. P. P., Mrs. I. R. Minakan, A-g D. C. L., N. E. Iroegbu (Mrs.) Asst. D. C. L., Mrs. N. Obunke-Wogugu, S. C., Mrs. Ohochukwu, C. S. C., Mr. O. A. Ademola), for the Appellants.  
G. K. Olufon, for the Respondent.

### **CASES REFERRED TO**

Attorney General of Ondo State v. Attorney General of the Federation & 35 Ors. (2002) 6 S.C. (Pt.1) 1  
E Alhaji Mohammed Dikko Yusuf & Anor. v. Chief Olusegun Aremu Okikiola Obasanjo & 56 Ors. (2003) 9-10 S.C. 53  
Attorney General of the Federation v. Attorney General of Abia State & 35 Ors. (2002) 4 S.C. (Pt.1) 1  
F *Madukolu v. Nkemdilim* (1962) 1 All NLR 587 at 594  
*Sken Consult Nig. Ltd. v. Godwin Ukey* (1981) 1 S.C. (Reprint) 4; (1981) 1 S.C.  
*Management Enterprises Ltd. v. Otusanya* (1987) 2 NWLR (Pt. 55) 179  
*James Orubu v. National Electoral Commission* (1988) 12 S.C (Pt. III) 1  
G (1988) 5 NWLR (Pt. 94) 353  
*Chima v. Ude* (1996) 6 NWLR (Pt. 461) 328 at 432  
*A-G Lagos State v. Dosunmu* (1989) 6 S.C. (Pt. II) 1; (1989) 6 SCNJ 134 at p. 140  
H *N.B.N. Ltd. v. Guthrie (Nig.) Ltd.* (1993) 3 NWLR (pt. 284) 643 at 659

### **STATUTES & RULES REFERRED TO**

Sheriffs and Civil Process Act (Cap. 189) Laws of the Federation of

Nigeria, 1990 s. 99

Constitution of the Federal Republic of Nigeria, 1999 ss. 3(3), 233(1) & (3), 251(1)(d)

High Court of Lagos State (Civil Procedure) Rules, 1994 O. 2 rr. 2 - 4, O. 7 rr. 2 and 13, O. 60 r. 1

B

### **LEAD JUDGMENT BY EJIUNMI JSC**

Before the High Court of Lagos State, the respondent as plaintiff commenced this action with a Writ of Summons dated 6th June, 2000 under the undefended list procedure against the appellants claiming against the 1st appellant the sum of USD3,138,122.81 being outstanding fees due to the respondent on work already executed on behalf of the Rivers State Government of Nigeria since 27th April, 1995. Interest was also claimed on the said sum at the rate of 21% per annum from 27th April, 1995 until the total liquidation of the entire debt. The Writ of Summons referred to above was accompanied by an affidavit headed “*Affidavit in Support for Undefended List*” and dated 6th June, 2000. The appellants’ address for service as endorsed on the face of the Writ of Summons was “*c/o Rivers State Government Liaison Office, 26 Bishop Oluwole Street, Victoria Island, Lagos.*” On the 7th of June 2000, the respondent filed an application seeking directions that “the suit formulated in the Writ of Summons together with affidavit in support with the relevant annexes be set down for hearing on the Undefended List. On the 11th of October, 2000, the court, Humponu-Wusu, J., granted leave to the respondent and directed that the suit as formulated in the Writ of Summons together with the affidavit in support with the relevant annexes be set down for hearing as undefended list. The Writ of Summons was thereafter allegedly served on one Mrs. Marcus, a clerk at the said Bishop Oluwole Street, Victoria Island address on or about 26th day of October, 2000, and a return date for the hearing was then fixed for the 13th November, 2000. On the 13th November, 2000, the court presided over by Humponu-Wusu J., entered judgment in favour of the respondent against the appellants for the sum of US \$3,138, 122.81 claimed together with 21% interest as claimed until judgment, and thereafter at 6%.

Now, the case of the appellants is that they did not participate in these proceedings as they did not have actual notice of the case. The first actual notice they had of it was when they were served with a Garnishee Order Nisi over their bank accounts. The appellants consequently appealed against the said judgment to the Court of Appeal and also sought and obtained a stay of action of the judgment.

In view of the argument that formed the bedrock of the appeal to this court, it is, I think, useful to set down the issues upon which the court below dismissed the appeal. The appellant in that court raised the following issues:

*“2.1 Whether the High Court of Lagos State can exercise jurisdiction in the suit when neither party to the suit resides and/or carries on business in Lagos and the transaction giving rise to the suit did not take place in Lagos.*

*2.2 Whether the sum of USD 3,138,122.81 claimed by the plaintiff/respondent and awarded by the court in the suit was a liquidated sum outstanding from the defendant/appellant in favour of the plaintiff/respondent upon which the court can grant leave directing that the suit be set down for hearing in the undefended list.*

*2.3 Whether the contract, if any, between the plaintiff/respondent and the 1st defendant/appellant provided for payment in US Dollars and if so, whether the court was right in awarding judgment in dollars.*

*2.4 Whether the award of 21% interest in favour of the plaintiff/respondent against the defendants/appellants is proper in law.”*

The court below in resolving that the appellants were properly sued in Lagos reasoned thus:-

*“Now, the appellants were served with the Writ of Summons. They did not take advantage of the provisions of the above rule of Order 60 by indicating that they wished to defend the suit. Defending the suit implies putting before the lower court all the defences either based on law or facts available to the appellant. On the Writ of Summons, the address of the appellants was shown as “c/o Rivers State Government Liaison Officer, Bishop Oluwole Street, Victoria Island, Lagos.” There was nothing on the processes before the lower court on the Writ of Summons and the affidavit*

*to indicate that neither party to the suit resided in Lagos. The appellants in their brief relied on Order 2 rule 3 of the High Court of Lagos State (Civil Procedure) Rules, 1994 to bolster up its argument that as the claim of the respondent was in contract, the claim would have been brought in the “Judicial Division in which such a contract ought to have been performed or in which the defendant resides”.* B

*However, a close scrutiny of the affidavit in support of the application and the Writ of Summons easily reveal that the claim was for a debt which parties themselves had agreed upon but which was not settled by the appellants. The contract had long been performed. The amount due to the respondent had been ascertained at a meeting between parties and agreed at N4,500,000.00 payable in six equal monthly instalments beginning from May, 1981. Clearly, this was no longer a claim in contract. It had become a debt. This was therefore a claim that fell within the ambit of Order 2 rule 4 of the High Court Rules which enabled the suit to be brought in a place where the “defendant resides or carries on business.” The Writ of Summons was served on the appellants at its Liaison Officer in Victoria Island, Lagos, which was a place where the defendants carried on business. Accordingly, it is my view that the appellants were properly sued in Lagos.”* C D E

Against this judgment and orders of the court below, the appellants have appealed to this court. Pursuant to the grounds of appeal filed, the following issues were raised in the appellants’ Amended brief filed by their counsel, H. Odein Ajumogobia, SAN., and Attorney General, Rivers State. The issues he adopted and placed reliance upon are as follows:- F

*“3.1 Whether the learned Justices of the Court of Appeal rightly held that the defendants reside and carry on business in Lagos, Lagos State.* G

*3.2 Whether the learned Justices of the Court of Appeal rightly held that the defendants were properly served in Lagos, Lagos State.*

*3.3 Whether the learned Justices of the Court of Appeal rightly held that the High Court of Lagos State had jurisdiction to hear and determine the suit and that the defendants were properly sued in Lagos, Lagos State.* H

*3.4 Whether the learned Justices of the Court of Appeal were right*

*in their decision that the High Court of Lagos State had jurisdiction to entertain the respondent's suit having regard to the subject matter of the respondent's action being a civil cause or matter connected with or pertaining to foreign exchange and the effect of Section 251 (1) (d) of the Constitution of the Federal Republic of Nigeria, 1999.*

B *3.5 Whether the service of the Writ of Summons and other court processes on appellants "c/o Rivers State Government Liaison Office, Bishop Oluwole Street, Victoria Island, Lagos" was good and proper service having regard to the mandatory provisions of Order 7 Rule 13 of the High Court of Lagos (Civil Procedure) Rules 1994 with regard to service of processes on an agent.*

*3.6 Whether the service of the Writ of Summons "c/o Rivers State Government Liaison Office, Bishop Oluwole Street, Victoria Island, Lagos" was valid and proper service on the appellant without an order of substituted service.*

*3.7 Whether the Writ of Summons was returnable within 8 days and not 30 days as required by Section 99 of the Sheriffs and Civil Process in respect of a writ for service out of jurisdiction having regard to the residence and/or place of business of the appellants in Port Harcourt, Rivers State by virtue of Section 3 (3) of the Constitution of the Federal Republic of Nigeria.*

F *3.8 Whether the plaintiff/respondent was entitled to judgment in the sum of \$3,138,122.81 having regard to the lower court's express finding that the amount agreed between the respondent and the appellant to be paid to the respondent, as constituting the debt owed to the respondent was N4.5 million.*

G *3.9 Whether the respondent was entitled to interest at the rate of 21% per annum from 27th April, 1995, until judgment as affirmed by the Court of Appeal."*

H *Mercifully, the respondent, in the brief, filed on its behalf by its counsel, Gbolahan Olufon, did not raise any issue of his own. Rather, he adopted the issues set down by the appellants in their brief. But he decided to raise a preliminary objection against the grounds of appeal filed by the appellant. The reason given for the objection so raised was because he*

thought that as the grounds of appeal were of mixed law and facts, the appellant needed to have obtained the leave of court and which they failed to obtain. At the hearing of the appeal, the preliminary objection was withdrawn when it was brought to the attention of learned counsel that the appellant had duly obtained the requisite leave. The preliminary objection B was accordingly struck out.

However, it is pertinent to remark that though the appellants duly obtained leave to file the several grounds of appeal in pursuit of this appeal, I must say that the several issues raised thereon are simply unduly repetitive of one another. In my humble view, the two questions that call C for determination in the appeal are (1) whether the court below was right to have held that the appellants were properly served, and secondly, that the trial court had the jurisdiction to determine the case.

In view of what I have said above, I intend to consider together D issues 1 - 4. The first point made by counsel is that it must be noted that Port Harcourt is the capital city of Rivers State and that is where the Chief Law Officer of the State and Commissioner for Justice of the Government has his offices and it is also the seat of Government. And submits that E though the Rivers State Government has a property at Bishop Oluwole Street, service of processes in respect of this matter on a person called Mrs. Marcus in an office in that building cannot by any stretch of imagination be proper service on the Government and the Attorney F General. Next, he argued that in accordance with the provisions of Order 7 Rule 2 of the High Court of Lagos State (Civil Procedure) Rules 1994, the Writ of Summons was itself not properly endorsed as the writ did not provide an address for personal service on either of the defendants. In support of his submission, he referred to these cases: Sken Consult G (Nigeria) Ltd. v. Ukey (1981) 1 S.C. (Reprint) 4; (1981) 1 S.C. 6 at 26; ACB Plc. v. Losada (Nig) Ltd. (1995) 7 NWLR (pt. 405) 26 at 44; N.B.N. Ltd. v. Guthrie (Nig.) Ltd. (1993) 3 NWLR (pt. 284) 643 at 659 and also H for the principle that non-service of the Writ of Summons is a fundamental defect in the proceedings. Any judgment obtained in such a situation has always been declared a nullity. Reference was also made to the provisions of Section 99 of the Sheriffs and Civil Process Act (Cap. 189) Law of the

Federation of Nigeria 1990, its provisions that any writ issued from Lagos for service outside its jurisdiction must be complied with for effective service on the defendant. The return date in such a case should not be less than 30 days. It is also the contention of learned counsel for the appellant B that as the subject matter of the suit is one sounding in contract, the High Court of Lagos State has no jurisdiction to hear the suit, having regard to Order 2 Rule 3 of the High Court of Lagos State (Civil Procedure) Rules, 1994. And if, as held by the court below that the suit was one sounding in debt, it is the submission of learned counsel that the Lagos State High C Court still lacks jurisdiction having regard to the provisions of Order 2 Rule 3 of the Lagos State High Court (Civil Procedure) Rules, 1994.

Learned counsel for the appellants also submitted that having regard to the fact that the subject matter of the action being a civil cause or matter D connected with or pertaining to foreign exchange, the Lagos State High Court lacks jurisdiction to deal with the matter, having regard to the provisions of Section 251 (1) (d) of the Constitution of the Federal Republic of Nigeria, 1999. Generally, the argument of the respondent to E this appeal on the other hand, is that this appeal be dismissed. This is because it is the contention of its learned counsel, G. K. Olufon Esq., and as argued in the brief of the respondent, that the court below was right to have held that the appellants were duly served with the Writ of Summons and that the trial court had the necessary jurisdiction to hear and determine F the claim before it.

It is my respectful view that the first question that must be determined in this appeal is, whether the appellants were properly served. In order to determine this question and as this matter proceeded under the G Undefended List procedure, it is necessary to refer to Order 60 of the High Court Rules of Lagos State, 1994, which lays down the procedure for cases entered in the Undefended List. It reads:-

*“A plaintiff who is suing for recovery of a debt, a liquidated money H demand, or any other claim in the case of Lagos State, may ask for summary judgment. The procedure for doing this is as follows: His application for the issue of a Writ of Summons in respect of any of these claims should be supported by an affidavit setting forth the grounds upon*

which the claim is based and stating that in the belief of the deponent there is no defence to the claim. The court, if satisfied that there are good grounds for believing that there is really no defence to the claim enters the writ for hearing in a list which is called the "Undefended List" and then marks the Writ of Summons accordingly and enters on it a suitable date for hearing the suit. The affidavit should not merely state the deponent's belief but also the facts on which such beliefs is based so as to satisfy the court that "there are good grounds for" the belief that there is no defence to the action. The plaintiff must deliver to the registrar upon the issue of the Writ of Summons as many copies of this affidavit as there are defendants to be served. To each copy of the writ a copy of the affidavit is annexed. The defendant or where there are two or more defendants, each of them is therefore served a copy of the writ together with a copy of the affidavit attached to it. On the service of these documents on him, the defendant has two options. He may either concede the claim if he has no defence as maintained by the plaintiff or he may wish to defend the action." (Underlining mine)

**It is my humble view following a careful perusal of this order that it is imperative that a plaintiff who wishes to proceed against a defendant for a claim under the Undefended List must provide at least affidavit evidence that he served each of the defendants with the Writ of Summons and the affidavit filed with the Court Registry and other documents he wished to rely upon to obtain judgment. It was alleged that a certain Mrs. Marcus of the Liaison Office of the appellant was served with the Writ of Summons and the supporting documents. However, I have looked through the record and I cannot find any affidavit filed by the respondent that each of the appellants were duly served with the documents as stipulated under Order 60 (supra). In ordinary cases, the courts have always insisted on the evidence of the service of courts' processes before the hearing of any matter or cause. It is my view that the procedure by which a judgment would be obtained by a plaintiff under the Undefended List procedure must place no less a burden on the plaintiff. It is clear from the latter provisions of Order 60 underlined above that it is after the defendants (appellants) have been**

properly served that they would be required to exercise the options open to them to defend or not to defend the action.

The question that agitates my mind is not whether the appellants failed to defend the action upon being served as held by the lower court, but whether there was satisfactory evidence of such service on each of the appellants as required by Order 60. It is my humble view that my reading through the proceedings of the trial court has not revealed to me that though it was claimed that processes were served on one Mrs. Marcus at the Rivers State Liaison Office at 26 Bishop Oluwole Street, Victoria Island, Lagos, there is no evidence, such as an affidavit in this regard to prove that each of the appellants were served in the Records.

**Further, though it was not satisfactorily established that service was effected by an affidavit as observed, it is in any event now settled that where a service is effected in the Liaison Office it is presumed that that service was properly effected. It must be noted that in several of the cases that had been brought to this court, parties were apparently served through the Liaison Offices of their various States and they duly responded to such service without taking any exception to the fact that they were served through their State Liaison Officer. See Attorney General of Ondo State v. Attorney General of the Federation & 35 Ors. (2002) 6 S.C. (Pt.1) 1; Alhaji Mohammed Dikko Yusuf & Anor. v. Chief Olusegun Aremu Okikiola Obasanjo & 56 Ors. (2003) 9-10 S.C. 53 and Attorney General of the Federation v. Attorney General of Abia State & 35 Ors. (2002) 4 S.C. (Pt.1) 1. In the instant case, there is uncontradicted evidence that the appellants were served at No. 26 Bishop Oluwole Street, the Liaison Office of the Rivers State Government at the time. The only reasonable inference that can be raised is that the appellants were duly served at the said Liaison Office, No. 26 Bishop Oluwole Street, Victoria Island, with the court processes as claimed by the respondent. I must therefore resolve this issue against the appellants.**

Now, the other question that will now be considered is, whether the court below was right to have held that High Court of Lagos State was properly seised of the case. The particular point that moved the court

below to reach that conclusion is the view held that the subject matter of the suit sounded in “*debt*” and not contract as argued by the appellants before the court below. As this argument has again been raised in this appeal, it must be considered again in the light of the reasoning of the court below. In this context, Oguntade, JCA., (as he then was) at p. 130 of the Printed Record said thus:-

*“However, a close scrutiny of the affidavit in support of the application and the Writ of Summons easily reveal that the claim was for a debt which parties themselves had agreed upon but which was not settled by the appellants. The contract had long been performed. The amount due to the respondent had been ascertained at a meeting between parties and agreed at N4,500,000.00 payable in six equal monthly instalments beginning from May, 1981. Clearly, this was no longer a claim in contract. It had become a debt. This was therefore a claim that fell within the ambit of Order 2 rule 4 of the High Court Rules which enabled the suit to be brought in a place where the “defendant resides or carries on business.” The Writ of Summons was served on the appellants at its Liaison Office in Victoria Island, Lagos, which was a place where the defendants carried on business. Accordingly, it is my view that the appellants were properly sued in Lagos.”*

The above excerpt from the judgment of the court below compels me to consider the following aspects of the reasoning of that court. The first point that I wish to make is, whether the court below was right to have held that the parties had agreed that the debt sum was settled at N4,500,000.00. Reference was made to the affidavit filed in support of the Writ of Summons.

See pages 131 & 132. And I will refer particularly to paragraphs 5, 6, & 10, thereof:

*“5. In April 1981 a special committee of the 1st defendant and the plaintiff agreed that the total value of works already executed on the projects by plaintiff was N4.5 million Naira and that 60% of that amount were dominated in foreign currency. See Exhibit ‘A’ minutes of meeting dated April 5, 1981.*

*6. By its exchange control approval letter of 19th June 1991, the*

*Federal Ministry of Finance approved the transfer of 60% of the above mentioned contract sum of N4.5 million at the pre-SFEM rate by the Rivers State Government to plaintiff- See Exhibit 'C'.*

10. *The 1st defendant subsequently in 1995 paid the sum of 3.5 million as a deposit towards the remittance of the balance of the 60% foreign content of the contract into an escrow account with the Swedish Embassy on behalf of plaintiff. The Rivers State Commissioner for Finance then wrote to the Federal Ministry of Finance to approve the outstanding amount of USD3,138,122.81 at the pre-SFEM rate. See Exhibit 'E' letter from defendants' Commissioner for Finance dated 27th April, 1995."*

A careful reading of these paragraphs seem to show that a sum of N4,500,000.00 was agreed as the debt. But clearly the respondent, has by its Writ of Summons gone ahead to claim the sum of USD3,138,122.81, and which the appellants are now disputing. The court below took the view that the appellants should have raised that as a defence to the action when they were served with the Writ of Summons. The position taken by the court below is no doubt understandable having held that they were properly served with the Writ of Summons. But having regard to what I have said concerning the service of this Writ of Summons, I do not think that the court below was right to have held that the actions sounded in debt. It is enough to say that having recognized that there is a dispute as to the sum claimed, the court below should not have held that a contract no longer subsists between the parties. It seems to me that as the dispute as to terms of settlement has not been resolved, it cannot be said that the action can be described as a recovery of a debt due simpliciter.

The next question is, whether it can rightly be said that the appellants were doing their business in Lagos merely because they had a Liaison Office at 26 Bishop Oluwole Street, Victoria Island, Lagos where they were purportedly served. I think not. In my respectful view, it is quite untenable for a court to hold that a State Government is operating from a Liaison Office. Nor can it be

similarly considered tenable and within good reason to hold also that the Attorney-General of a State is operating and had its offices within the confines of a Liaison Office. In my respectful view, it is preposterous to hold that a State Government and principal officers of a State such as the Attorney General are carrying out the businesses of their offices in a Liaison Office. In any event, the determination of where the appellants have as their business place ought to be determined by virtue of the provisions of Section 3 (3) of the Constitution of Nigeria 1999 which states inter alia, that the headquarters of each State shall be known as the Capital City of that State: and which in the case of Rivers State is Port Harcourt.

Although the respondent was silent in the affidavit filed in support of the Writ of Summons about where the transactions concerning the alleged agreement on the amount owed, it is however my view from a careful reading of the affidavit and in the other supporting documents that all the transactions that resulted in this action took place in Port Harcourt. With what I have said above, I am afraid it is not possible for me to subscribe to the view held by the court below that the appellants were carrying on their business in Lagos.

This takes me to the provisions of Order 2 Rule 3 of the High Court of Lagos (Civil Procedure) Rules, 1994 which reads:-

*“All suits for the specific performance or upon breach of any contract may be commenced and determined in the Judicial Division in which such a contract ought to have been performed or in which the defendant resides.”*

By the above provisions of Order 2 Rule 3, it is manifest that this action having regard to my conclusion, that the appellants reside and have their business in Port Harcourt, it is my view that had the court below adverted to the above provisions and the facts as analyzed above, it would not have held that the action was properly commenced and heard in Lagos. It follows therefore that the decision of the court below that the appellants reside and do their business in Lagos is hereby overturned.

From what I have said above, this appeal ought to succeed. It is

unfortunate though, that this matter ought to have been properly concluded before now had the respondent taken proper steps as provided by the Rules to prosecute the claim. I think I ought to add that it is not always profitable for a seeker after justice to do so by shutting out the other party unfairly in the determination of the matters in dispute.

In the result and for all the reasons given above, this appeal is allowed by me. The judgment and orders of the court below are set aside and I award costs to the appellants in the sum of N10,000.00 only.

C

---

**UWAIS CJN**

I have had the opportunity of reading in draft the judgment read by my learned brother, Ejiwunmi, JSC. I agree that the service on the appellants through the Rivers State Liaison Office in Lagos was proper since the office had been established by the Rivers State Government for the purposes of conducting some of its business in Lagos. On jurisdiction, there is no doubt that the High Court of Lagos State by its Rules could not hear the respondent's claim even on the undefended list.

Accordingly, I too allow the appeal and award N10,000.00 costs to the appellants.

F

---

**ONU JSC**

I have had the advantage of reading before now the judgment just delivered by my learned brother, Ejiwunmi, JSC., and I agree with his reasoning and conclusion that the appeal succeeds. It is accordingly allowed by me and I make similar consequential orders inclusive of costs as therein awarded.

H

---

**TOBI JSC**

I have read the judgment of my learned brother, Ejiwunmi, JSC., and I agree with him. I want to add this bit of mine and it will be on the issue of jurisdiction.

Learned Senior Advocate for the appellants, Mr. H. O. Ajumogobia, sought leave of this court to raise the issue of jurisdiction which was not raised either in the High Court or in the Court of Appeal. The question of jurisdiction, being radically fundamental, can be raised at any stage of the proceedings and even for the first time in this court. See *Management Enterprises Ltd. v. Otusanya* (1987) 2 NWLR (Pt. 55) 179. B

The action was filed by the plaintiff/respondent against the defendants/appellants for contract executed by the plaintiff/respondent rendering engineering consultancy services to Rivers State Government in Port Harcourt between 1974 and 1981. C

Why was the action filed in the High Court of Lagos State when there is no nexus between the contract and Lagos State? A court in one State does not have jurisdiction to hear and determine a matter which is exclusively within the jurisdiction of another State. In actions based on contract, jurisdiction depends generally on one of the following three alternatives, namely: (a) where the contract was made; (b) where the contract ought to have been performed; or (c) where the defendant or one of the defendants resides. There is also another settled procedure and it is this. The venue for the trial of a suit based on a breach of contract could also be determined by (a) where the contract ought to have been performed; or (b) where the defendant resides; or (c) where the defendant carries on business. I do not see the jurisdiction of the High Court of Lagos State in any of the above. D E F

Can the appellants be said to have carried on business in Lagos as held by the Court of Appeal? I think not. With respect, I do not agree with the Court of Appeal that the appellants carried on business in Lagos State merely because a liaison office is located there. A liaison office is merely for administrative convenience and cannot qualify as carrying on business of a State Government. While a liaison office may be good enough for purposes of service (an issue I will take later) it is certainly not good enough as a place where the appellants carry on business. G H

The Court of Appeal invoked Order 2 rule 4 of the High Court of Lagos State Rules. While it does not appear to me that jurisdiction of a court can be determined by Rules of Court, as it is a matter of either the

Constitution or the enabling statute. I shall take the rule here. It provides:

*“All other suits may be commenced and determined in the Judicial Division in which the defendant resides or carries on business.”*

I am in total agreement with learned Senior Advocate for the appellants that both appellants reside at their administrative headquarters in Port Harcourt, and if I add may they also carry on business there.

Let me also deal with the issue of service as it affects the jurisdiction of the court. The essence of service in our procedural or adjectival law is to ensure that the party is put on notice of the pending litigation, and this can be achieved through a liaison office. The word “*liaison*” means a working association or connection, to ensure that each side is well informed about what the other is doing.

Communications are usually sent through liaison offices to their State Governments in named cities and towns. Can the 1st appellant really argue that it has never received any communication by way of letters and all that through the Lagos Liaison Office? Why should a Writ of Summons be different? The point by learned Senior advocate for the appellants sounds rather technical and abstract. With respect, I do not agree with him that service on the liaison office of the 1st appellant is not personal service. The liaison office is clearly an administrative arm of the 1st appellant and service can be effected through it. I am of the view that service on the liaison office of the 1st appellant, if there is service at all, is proper personal service on the appellants, and I so hold.

In view of the fact that the High Court of Lagos State had not the jurisdiction in the matter, the appeal is allowed. The claim before the High Court of Lagos State is struck out. I award N10,000.00 costs in favour of the appellants.

---

### EDOZIE JSC

By a Writ of Summons in Suit No. LD/1664/2000 filed in the Registry of the High Court of Lagos on 6th June, 2000, the respondent as plaintiff claimed against the appellants and defendants reliefs formulated in the following terms:-

“ 1. *The plaintiff claims against the 1st defendant the sum of USD 3,138,132.81 cents (Three Million One Hundred and Thirty Eight Thousand (sic) and Eight One cents) being outstanding fees due to plaintiff on work already executed on behalf of the Rivers State Government of Nigeria since 27th April, 1995.*

2. *Interest at the rate of 21% per annum from 27th April, 1995 until the total liquidation of the entire debt under paragraph 1 hereof.”*

The suit was brought under the undefended list procedure and was supported by an affidavit to which were annexed several documentary exhibits. The appellants’ address for service as endorsed on the face of the Writ of Summons was “*c/o Rivers State Government Liaison Office, Bishop Oluwole Street, Victoria Island, Lagos*”. On 11/10/2000, the High Court of Lagos (coram Humponu-Wusu J.), set the matter down for hearing as undefended suit against 13/11/2000 on which date, there being no notice of intention to defend filed on behalf of the appellants, judgment was entered in favour of the respondent against the appellants for the sum of USD 3,138,122.81 together with 21% interest until judgment and thereafter at 6%.

The appellants who did not participate in the proceedings of the court alleged that they did not have actual notice of the court proceedings until they were served with a garnishee order nisi over their bank account in execution of the judgment. Aggrieved by the decision of the trial court, the appellants filed an appeal to the Court of Appeal and sought and obtained a stay of execution pending appeal. On 16th of July, 2000, the Court of Appeal Lagos Division, in a unanimous decision, dismissed the appellants’ appeal and affirming the judgment of the trial court, it inter alia, held that the appellants were properly served with the writ of summons and that since they did not take advantage of the relevant rule of Order 60 of the High Court of Lagos (Civil Procedure) Rules by filing a notice of intention to defend the suit, they could not be heard to complain.

Against the judgment of the Court of Appeal, the appellants have lodged the instant appeal predicated on a notice of appeal dated 17th July, 2001, containing five grounds of appeal and subsequently amended with six additional grounds of appeal pursuant to an order of this court made

on 28th October, 2002. Parties by their respective counsel filed and exchanged briefs of argument. An appellants' brief and a reply brief were filed by the learned senior counsel for the appellants and a respondent's brief was similarly filed by its learned counsel. From a total of the eleven grounds of appeal filed, the appellants identified nine issues for determination viz:-

*“3.1 Whether the learned Justices of the Court of Appeal rightly held that the defendants reside and carry on business in Lagos, Lagos State.*

*3.2 Whether the learned Justices of the Court of Appeal rightly held that the defendants were properly served in Lagos, Lagos State.*

*3.3 Whether the learned Justices of the Court of Appeal rightly held that the High Court of Lagos State had jurisdiction to hear and determine the suit and that the defendants were properly sued in Lagos, Lagos State.*

*3.4 Whether the learned Justices of the Court of Appeal were right in their decision that the High Court of Lagos State had jurisdiction to entertain the respondent's suit having regard to the subject matter of the respondent's action being a civil cause or matter connected with or pertaining to foreign exchange and the effect of Section 251 (1) (d) of the Constitution of the Federal Republic of Nigeria, 1999.*

*3.5 Whether the service of the Writ of Summons and other court processes on appellants “c/o Rivers State Government Liaison Office, Bishop Oluwole Street Victoria Island, Lagos” was good and proper service having regard to the mandatory provisions of Order 7 Rule 13 of the High Court of Lagos (Civil Procedure) Rules 1994 with regard to service of processes on an agent.*

*3.6 Whether the service of the Writ of Summons “c/o Rivers State Government Liaison Office, Bishop Oluwole Street, Victoria Island, Lagos” was valid and proper service on the appellant without an order of substituted service.*

*3.7 Whether the Writ of Summons was returnable within 8 days and not 30 days as required by Section 99 of the Sheriffs and Civil Processes Act in respect of a writ for service out of jurisdiction having regard to the residence and/or place of business of the appellants in Port Harcourt,*

*Rivers State by virtue of Section 3 of the Constitution of the Federal Republic of Nigeria.*

*3.8 Whether the plaintiff/respondent was entitled to judgment in the sum of USD 3,138,122.81 having regard to the lower court's express finding that the amount agreed between the respondent and the appellants to be paid to the respondent, as constituting the debt owed to the respondent was N4.5 million.*

*3.9 Whether the respondent was entitled to interest at the rate of 21% per annum from 27th April, 1995 until judgment as affirmed by the Court of Appeal."*

In the respondent's brief, the following two issues were formulated:-

*"1. Whether the grounds of appeal in this case filed without the required leave of court under Section 233(1) and (3) of the Constitution of the Federal Republic of Nigeria 1999 is competent.*

*2. Whether upon the facts contained on the Writ of Summons and evidence adduced before the trial court and accepted by the Court of Appeal, the Court of Appeal ought to have dismissed the appeal lodged by the Defendant/Appellant in this case."*

As indicated on page 6 of the respondent's brief of argument, the respondent filed a Notice of Preliminary Objection challenging the competency of the appellants' grounds of appeal on the ground that as they are all of mixed law and fact, the leave of the court below or this court was not obtained to file them in violation of Section 233(1) and (3) of the Constitution of the Federal Republic of Nigeria 1999. It is this Preliminary objection that forms the substratum of the respondent's first issue for determination. Time without number, it has been stated by this court that it is improper to include in the issues formulated for the determination of an appeal issues relating to the Preliminary objections on the competency to the hearing of the appeal. They are two separate things. The issues formulated for the determination of an appeal derive from the grounds of appeal challenging the decision appealed against. Objections to the grounds of appeal do not and could not relate to a matter decided in the judgment appealed against. As this court, per Obaseki, JSC., succinctly put it, in

Niger Progress Ltd. v. N.E.L Corporation (1989) 4 S.C. (Pt. II) 164;  
(1989) 3 NWLR (Pt. 107) 77 at p. 82:-

B “Questions or issues for determination in any appeal must be issues  
culled from the grounds of appeal. They are not complaints of failure to  
comply with the Rules of Court governing the filing of briefs. It is desirable  
for counsel to examine the grounds of appeal argued or to be argued to  
ascertain the issues raised. Issues from complaints of failure to comply  
with rules of court, although issues for determination by the court are not  
C questions for determination in the appeal. They are issues for determina-  
tion before hearing the appeal in which issues for determination are  
raised.”

Be that as it may, the respondent’s Preliminary Objection is of no  
moment because as indicated in the appellants’ Reply brief, on page 3  
D thereof, this court, on 28th October, 2004, upon the appellants’ Motion on  
notice to amend the Notice of Appeal granted the reliefs prayed for  
including:-

E “(1) *Extending the time within which the appellants/applicants*  
*shall seek leave to appeal on grounds other than law alone;*

(2) *Granting the appellants/applicants herein leave to appeal on*  
*grounds other than law alone;*

F (3) *Extending the time within which the appellants/applicants shall*  
*appeal on grounds other than law alone;*

(5) *Deeming the Amended Notice of Appeal..... having been*  
*properly and duly filed and served.”*

G With the appellants’ grounds of appeal having been regularized by  
this court, there is no substance in the respondent’s Preliminary Objection  
and it was rightly withdrawn and struck out.

H The appellants have raised nine issues for determination already set  
out above. Bearing in mind the order to be made, I propose to consider only  
the appellants’ 3rd issue for determination which at the risk of repetition  
but for ease of reference is once reproduced hereunder:-

“3.3 *Whether the learned Justices of the Court of Appeal rightly*  
*held that the High Court of Lagos State had jurisdiction to hear and*  
*determine the suit and that the defendants were properly sued in Lagos,*

*Lagos State*".

In arguing this issue, it is submitted in the appellants' brief that respondent's claim, being one based on a contract, the suit should have been commenced in the Judicial Division in which the contract ought to have been performed or in which the appellants' reside, namely, Port B Harcourt, Rivers State and that the High Court, Lagos, had no territorial jurisdiction or competence to entertain the suit. Order 2 Rule 3 of the High Court of Lagos State (Civil Procedure) Rules 1994 and the case of Ezomo v. Oyakhire (1985) 1 NWLR (Pt.2) 195 at 203 were called in aid. It was C further submitted that even if the respondents claim was for a debt, the Lagos High Court was not vested with the jurisdiction to determine the suit having regard to Order 2 Rule 4 of the aforesaid High Court of Lagos State (Civil Procedure) Rules 1994 or the Uniform Civil Procedure Rules D applicable in each State of the Federation including Lagos State. Citing the cases of Madukolu v. Nkemdilim (1962) 1 All NLR 587 at 594 and Sken Consult Nig. Ltd. v. Godwin Ukey (1981) 1 S.C. (Reprint) 4; (1981) 1 S.C., it was submitted that the subject matter of the respondent's suit did not fall within the jurisdiction of the Lagos State High Court. E

In response, it is submitted in the respondent's brief that the appellants were sued for a debt the amount of which had been agreed by both parties and that the applicable rule that governs the determination of the claim is Order 60 Rules 1, 2, and 3 of the Lagos State High Court (Civil F Procedure) Rules 1994. It was further argued that there was no evidence on record that the contract that gave rise to the claim was executed in Port Harcourt, that the appellants resided in Port-Harcourt nor that the respondent does not reside or carry on business in Lagos.

The issue being agitated by the parties was considered by the court G below. At page 287 of the record, the court below reasoned as follows:-

*"However, a close scrutiny of the affidavit in support of the application and Writ of Summons easily reveals that the claim was for a debt which parties themselves had agreed upon but which was not settled H by the appellants. The contract has long been performed. The amount due to the respondent had been ascertained at a meeting between parties and agreed at N4,500,000.00 payable in six equal monthly instalments*

*beginning from May, 1991. Clearly, this was no longer a claim in contract. It had become a debt. This was therefore a claim that fell within the ambit of Order 2 Rule 4 of the High Court Rules which enabled the suit to be brought in a place where the “defendant resides or carries on business”. The Writ of Summons was served on the appellants at its liaison office in Victoria Island which was a place where the defendant carried on business. Accordingly, it is my view that the appellants were properly sued in Lagos.”*

With profound respect to the learned Justices of the Court of Appeal, the statement that - “*The contract had long been performed*” is not entirely correct. To the extent that the respondent had completed its consultancy services, under the contract agreement between the parties, the statement is correct. But since the appellants had not completely discharged their contractual obligation by paying fully the contract sum, the contract cannot be said to have been performed. Moreover, the mere fact that the amount due has become a debt did not detract from the fact that it arose from a breach of contract. The affidavit evidence in support of the Writ of Summons in this case disclosed that between 1974 and 1981, the respondent executed various engineering consultancy works on behalf of the Rivers State Government. Part of the contract sum due to the respondent had been paid. It is for the payment of the outstanding balance that the respondent, a foreign based company had initiated the present proceedings. I am, therefore, of the firm view that the respondent’s claim was an action for breach of contract which is governed by Order 2 Rule 3 of the High Court of Lagos State (Civil Procedure) Rules 1994. It provides:-

“*All suits for specific performance or upon the breach of any contract may be commenced and determined in the Judicial Division in which such a contract ought to have been performed or in which the defendant resides.*”

From the respondent’s own documents (p.3-8 of the record), annexed to the affidavit in support of the Writ of Summons, it is evident that the consultancy services rendered by the respondent to the appellants in respect of the construction of new secretarial building, sewerage

scheme, office building etc., are all located in Port-Harcourt. As a matter of law which the court takes judicial notice of, the headquarters and seat of government and, ipso facto, the place of business or where the Rivers State Government and its Attorney-General reside is in Port-Harcourt: see Section 3 (3) of the 1999 Constitution. The respondent had referred to Order 60 of the High Court of Lagos State (Civil Procedure) Rules in support of the contention that the Lagos State High Court had jurisdiction to adjudicate over the suit under consideration. Rule of the said Order 60 provides, inter alia, thus:-

*“Whenever application is made to a court for the issue of a Writ of Summons in respect of a claim to recover a debt or liquidated money demand..... the court shall..... enter the suit for hearing in what shall be called the “Undefended List”,..... and enter thereon a date for hearing.....”* (underlining for emphasis)

The above provision cannot be interpreted in isolation from the provisions of other parts of the High Court of Lagos State (Civil Procedure) Rules. It is a cardinal rule of interpretation of statute that in seeking to interpret a particular section of a statute or a subsidiary legislation, one does not take the section in isolation, rather, one should approach the question of the interpretation on the footing that the section is part of a greater whole: see *James Orubu v. National Electoral Commission* (1988) 12 S.C (Pt. III) 1 (1988) 5 NWLR (Pt. 94) 353; *Chima v. Ude* (1996) 6 NWLR (Pt. 461) 328 at 432. In the case in hand, when Order 60 of the High Court of Lagos State (Civil Procedure) Rules supra dealing with Undefended List procedure is related to Order 2 of the said Rules which deals with the place of instituting suits, it will be readily seen that it is not every debt however or wherever incurred that can be adjudicated upon in the Lagos High Court under the Undefended List procedure. It is only a debt incurred in such circumstances as would confer jurisdiction on the Lagos State High Court pursuant to Order 2 of its Rules. Order 60 therefore, does not confer jurisdiction on the Lagos High Court over the respondent’s suit as erroneously contended by learned counsel for the respondent.

A court is only competent to exercise jurisdiction where the following conditions are satisfied:-

(1) The court is properly constituted as regards members and qualifications of the members of the bench and no member is disqualified  
B for one reason or another;

(2) The subject matter of the case is within its jurisdiction and there is no feature in the case which prevents the court from exercising jurisdiction; and

(3) The case comes before the court by due process of law and  
C upon the fulfillment of any condition precedent to the exercise of jurisdiction. Any defect in competence is fatal for the proceedings are a nullity however well conducted and decided; the defect is extrinsic to the adjudication.

D See *Madukolu v. Nkemdilim* supra, *Sken Consult Nig. Ltd. v. Godwin Ukey* supra at p.62.

Jurisdiction is a crucial and radical question. If the court has no jurisdiction to determine a subject matter, the proceedings thereto are and  
E remain a nullity however well conducted and brilliantly decided they might otherwise have been: *A-G Lagos State v. Dosunmu* (1989) 6 S.C. (Pt. II) 1; (1989) 6 SCNJ 134 at p. 140. Having regard to the foregoing, I agree with the learned Attorney-General for Rivers State, Mr. H. O. Ajumogobia,  
F SAN., that the subject matter of the respondent's claim which is a claim for breach of contract executed in Port-Harcourt, Rivers State where the appellants' reside, the Lagos State High Court was without jurisdiction to adjudicate over the matter. This appeal is meritorious and is accordingly allowed. The decision of the Lagos State High Court in Suit No LD/1664/  
G 2000 delivered on 13/10/2000 and the judgment of the Court of Appeal, Lagos Division in Appeal No. CA/L/1 32/2001 delivered on 16th July, 2001 are hereby declared a nullity with liberty to the respondent to commence fresh proceedings in the appropriate venue. It is for these and the  
H fuller reasons adumbrated in the leading judgment of my learned brother, Ejiwunmi, JSC., that I also allow the appeal with N10,000.00 costs to the appellants.