

IN THE SUPREME COURT OF NIGERIA
HOLDEN AT ABUJA
ON FRIDAY, THE 24TH DAY MAY, 2019
BEFORE THEIR LORDSHIPS

IBRAHIM TANKO MUHAMMAD
OLUKAYODE ARIWOOLA
JOHN INYANG OKORO
PAUL ADAMU GALUMJE
UWANI MUSA ABBA AJI

AG. CHIEF JUSTICE OF NIGERIA
JUSTICE, SUPREME COURT
JUSTICE, SUPREME COURT
JUSTICE, SUPREME COURT
JUSTICE, SUPREME COURT

SC. 377/2019

BETWEEN:

- | | |
|--|------------|
| 1. ALL PROGRESSIVE CONGRESS (APC) | |
| 2. INUWA ABDULKADIR 1 ST NATIONAL VICE CHAIRMAN
NORTH WEST ZONE OF APC | APPELLANTS |

AND

- | | |
|--------------------------------|-------------|
| 1. SENATOR KABIRU GARBA MARAFA | |
| 2. ALH. SIRAJU GARBA | |
| 3. ALH. MUHAMMAD JIMA | |
| 4. YAKUBU MUKHTAR | |
| 5. BELLO ABUBAKAR | |
| 6. ZUBAIRU MUSA B. | |
| 7. ALH. HAMZA TUKUR | |
| 8. AUWALU ALHAZAI | |
| 9. NASIRU MOHAMMED FARU | |
| 10. HON. ALH. SALISU AMINU | |
| 11. SA'IDU BARE BARI | |
| 12. UMAR HASHIMU | |
| 13. ALH. SANI GOBIRAWA | |
| 14. ALH. SANI GYARE KADAURI | |
| 15. ALH. MUSA SAMARU | |
| 16. MUSA ABDULLAHI NAHUCE | |
| 17. BASHAR ABDULLAHI | |
| 18. ADAMU RABIU TSIKAU | RESPONDENTS |

CERTIFIED TRUE COPY
Cyris Olatunji 30/5/2019
REGISTRAR
Supreme Court of Nigeria

19. SHAFI' I MUSA
20. ABUBAKAR UMAR
21. MOHAMMED SANI
22. BUHARI ABDULLAHI
23. JUNAIDU MOHAMMED
24. AMINJU ABUBAKAR WUYA
25. AHMAD S/ASKI
26. YUSUF BABAN RAGO
27. SARKI NA YALWA
28. ZAYYANU DAHIRU
29. LAWAL DAN MALIKI
30. BELLO SHEHU
31. DAN MALIKI
32. UMMARU BUZU
33. AISHA BALA
34. UMAR SHUAIBU
35. DAN JA'ORINI
36. LAWALI MOHAMMED YARGEDA
37. SHUGABA DA AIKI
38. ALH. HAMISU MAI AIKI
39. MURTALA A. MANDE
40. MAMUDA SADA
41. ALH. HASSAN ABDLLAHI
42. ALH. BELLO MAI YARMAKA
43. ABUBAKAR KOKARI
44. ALH. BELLO D/UMMA
45. ALH. IBRAHIM IMAM
46. AMINU IBRAHIM
47. SHEHU UMAR
48. MUSA DOGO
49. SANI BATURE
50. HASSAN GARBA ZUBU
51. JABIR UMAR
52. SHEHU TAJA
53. MALAMI SULAIMAN
54. ABUBAKAR BAWA
55. SANI BATURE
56. ABUBAKAR MUH'D
57. ALH. SANAMILA M. GIDA

RESPONDENTS

58. SANI A. DAHIRU
59. SANI BALA SANKALAWA
60. ALH. AMINU KURAR MOTA
61. ALH. DAYABO WAZOJI
62. UMMARU ABDULLAHI
63. ALH. ISAH MAI DAJI
64. ABUBAKAR AHMAD JAURI
65. GARBA SARKIN RUWA
66. MUSA LABBO GAMO
67. AUWALI ALIYU
68. BELLO IBRAHIM
69. SAYYADI ABUBAKAR
70. BELLO USMAN
71. YUNUSA USMAN
72. BELLO S/YAMMA
73. DAHIRU ABDULLAHI
74. RABIU HAMZA
75. SHEHU HALIDU
76. MUSA LUMU GYALANGE
77. ALH. ISAH DAN LARABAWA
78. ALH. LAWALI JIKA
79. ABDUL'AZIZ BARAU MALAM ZA
80. USMAN MUHAMMAD ALTINE
81. SURAJU MUHAMMAD
82. KHALID BUHARI
83. ANAS ABUBAKAR
84. RABI'I SHUGABA
85. JAMILU MUHAMMAD
86. BALA SABO
87. YUSUF ADAMU
88. MALAM FALALU MATOYA
89. ALIYU MUH'D S/GARI
90. SULAIMAN BALA
91. BELLO BARAU
92. SANI DAN ABU
93. ALIYU S/FAWA
94. DAHIRU HALILU
95. ATTO USUMAN
96. SALISU SAMA'ILA

RESPONDENTS

97. UMARU MALAM MAGAMI
98. DAHIRU ZAKARI
99. BASHAR MOHAMMED
100. SALE MOH'D DANBA'U
101. LAWALI DAN MAI GORO
102. MAI IDRIS MUSA
103. ABUBAKAR YARRUWA
104. TUKUR LUNGUFARU
105. ALIYU MAI MAI
106. HASSAN AHMAD
107. YUNUSA ABDULLAHI
108. ALH. IBRAHIM NA KATSALLE
109. ATTAHIRU RABIU
110. SAHABI DANDA
111. ABDULLAHI USMAN
112. SAMAILA SANI BINGI
113. ALHAJI DANJUMA MAFI
114. ALH. SADO GARBA
115. LAWALI BALA
116. ALH. SHEHU ABI
117. MANU NATA'ALA
118. GADO MAI MODI
119. ABDURRAHMAN SHINGE
120. WAKKALA KARINGUGA
121. ANARUWANATA KWAIRE
122. SURAJO AHMAD
123. YA'U NAMA
124. ALH. SADIKU KATURU
125. AKILU SULAIMAN
126. ALH. ISAH BAKAWI
127. ALH. GARBA DAN ILA
128. RABIU IBRAHIM
129. SANI MUSA
130. ALH. GARBA WANKE
131. SARKIN PAWA DAN ABU
132. ALH. MAMMAN NA'ISA
133. ALH. SAHABI KILLUTU
134. BARA'U ALIYU
135. MAL. DAYYABU ALARAMA

RESPONDENTS

136. ALH. ABDULKADIR LIMAN
137. ALH. ABDULSALAM ABUBAKAR
138. ALIYU SAYYADI
139. SULE MUHAMMAD
140. AMADU SARKIN
(for themselves and all other aspirants/candidates who paid prescribed fees for procurement of nomination forms for purpose of contesting the 1st Defendant's 147 Nos. Local Government Executive Committees and State Executive Committee Election held on 5th, 12th and 19th June, 2018 in Zamfara State, but were wrongly excluded or prevented from participating by voting or being voted for.)
141. SANUSI LIMAN DAN ALHAJI
142. ALHAJI BABANGIDA ABDULLAHI
143. KAIRU MANDE CHAFE,
Chairman APC Tsafe LG, (suing for themselves and on behalf of All State APC Members)
144. HON. MUKHTAR SHEHU IDRIS
145. HON. IKIRA ALIYU BILBIS
146. HON. TIJANI YAHYA KAURA
147. HON. ABDUL- AZIZ YARI ABUBAKAR
148. HON. SANUSI GARBA RIKIJI
149. HON. ABDULMALIK ZUBAIRU
150. HON. HUSSAINI ABUBAKAR MARIKI
151. HON. IBRAHIM MUH'D B/MAGAJI
152. HON. MUTTAKA MUH'D RINI
153. HON. AHMAD SHARU ANKO
154. HON. UMARU JIBO BUKKUYUM
155. HON. MUSTAPHA GADO ANKA
156. HON. MUH'D SANI AHMAD SANI
157. HON. KABIRU MOYI B/MAGAJI
158. HON. YAHAYA JIBRIL BUKKUYUM
159. HON. TUKUR MUH'D DANTASAWA
160. HON. IBRAHIM MUH'D K/KOSHI
161. HON. YAKUBU IBRAHIM NABATURE
162. HON. ALIYU MUH'D GAYERI
163. HON. ALIYU MUH'D FALALE
164. HON. SANUSI MUH'D LIMAN
165. HON. DALHATU MUHAMMED MAGAMI

RESPONDENTS

166. HON. LAWAL M. LIMAN
167. HON. ABUBAKAR IDRIS KURYA
168. HON. YAHAYA SHAHU MARADUN
169. HON. YAHAYA ABDULLAHI GORA
170. HON. HARUNA ABDULLAHI D/SADAU
171. HON. IBRAHIM ABU MARU
172. HON. SHEHU BELLO MAI WURNO
173. HON. ALIYU ANGO KAGARA
174. HON. ISAH ABDULMUMINU
175. HON. ALIYU ABUBAKAR MC
176. HON. ALIYU ABUBAKAR DANJIBGA
177. HON. MANIR ALIYU G/JAJA
178. HON. YUSUF AHMED MORIKI
179. INDEPENDENT NATIONAL ELECTORAL
COMMISSION (INEC)
180. HON. SANI JAJI

RESPONDENTS

JUDGMENT

(Delivered By Paul Adamu Galumje, JSC)

The appeal herein is against the decision or judgment of the Court of Appeal, Sokoto Division, delivered on the 25th of March, 2019, (Coram Tom Shaibu Yakubu, Tijani Abubakar and Jamilu Yammama Tukur JJCA).

The 1st Appellant, All Progressive Congress (APC) is a Political Party registered with the Independent National Electoral Commission (INEC), the 179th Respondent in this appeal, while the 2nd Respondent is the 1st National Chairman of the North-West Zone of the 1st Appellant. All the

Respondents, except the 179th Respondent are members of the 1st Appellant.

As part of its preparation towards the conduct of 2019 general elections, INEC prepared a time table in which it set out schedule of activities leading to the general elections. One of the activities was a directive to all the political parties to conduct their primary elections and submit the names of their candidates for the general elections to it between 18th August and 7th October, 2018. In obedience to the directive of INEC, the national Working Committee of the first Appellant in line with paragraph 20 (a)(b) and (c) of the All Progressives Congress (APC) guidelines for the nomination of candidates for the 2019 general elections, set up a 7 member election committee headed by Engineer Abubakar Fari to conduct its primary elections in Zamfara State on the 3rd of October, 2018. On the 3rd of October, 2018 the primary elections which started and continued successfully in some areas was later halted and suspended by the committee due to escalation of violence and protests.

The National Working Committee of the 1st Appellant rescheduled the primary elections to the 7th of October, 2018

and appointed a different committee, this time under the leadership of Major General Abubakar Mustapha Gana Rtd to conduct the primary elections. Due to tension and the shortage of time, the election could not hold. The committee suspended the election.

The 7th of October, 2018 was the closing date for party primaries and submission of names of candidates. This being so the State Government directed the State Party Executives to conduct the primaries at all levels before 12.00 midnight of 7th October, 2018. This was purportedly done within the short period and the list of those elected were submitted to INEC. A letter from the Acting Secretary of INEC to the 1st Appellant stated clearly that for its failure to conduct primary elections in Zamfara State and submit list of candidates for the general elections within the stipulated period it has barred itself from fielding candidates for the Governorship, National Assembly and State Assembly Elections in Zamfara State for the 2019 General Elections.

Being apprehensive that the list submitted by the State party Executive to INEC may not be approved, the 141st – 178th Respondents in this appeal, as plaintiffs at the trial court

at paragraph 16 of their statement of claim dated and filed on the 30th of October, 2018 claimed the following reliefs:-

- a) An order declaring as lawful and valid the primary election conducted by the APC (herein plaintiff's party) under the supervision of the 3rd Defendant and security agents on the 3rd and 7th day of October, 2018 for the purpose of producing candidates to vie for various election office which produce the plaintiffs under the platform of the 1st Defendant.*
- b) A declaration that any decision or steps taken to reverse the result of the primary election duly conducted on the 3rd and 7th day of October, 2018 and monitored by the 3rd defendant is or will amount to a nullity, void and of no effect whatsoever.*
- c) A declaration that the 1st Defendant is bound to recognize, accept and forward to the 3rd Defendant the list of candidates that emerged winner in the Governorship, National and State Legislative Houses Primary Elections of the 1st Defendant in Zamfara State held on the 3rd and 7th October, 2018 and monitored by the 3rd Defendant.*
- d) A declaration that the 3rd Defendant cannot refuse or shut out the 1st Defendant from presenting or forwarding to it the list of candidates that emerged winners in the Governorship, National and State Legislative Houses Primary Elections in Zamfara State same having been conducted on 3rd and 7th October, 2018, before the deadline set by the 3rd Defendant for Political Parties to hold their Primary Elections.*

- e) *A declaration that the 3rd Defendant cannot refuse to accept and publish the list of candidates that emerged winners of the Governorship, national and State legislative Houses Primary Elections of the 1st Defendant in Zamfara State submitted to it for the 2019 General Election.*
- f) *An order of this Honourable Court directing the 3rd Defendant to accept and publish the list of Governorship, National and State Legislative Houses Primary Elections of the 1st Defendant in Zamfara State held on the 3rd and 7th October, 2018 and monitored by the 3rd Defendant.*
- g) *An order directing the 3rd Defendant to accept and accord due recognition to the list of candidates that emerged winners in the Governorship, National and State Legislative Houses Primary Elections of the 1st Defendant in Zamfara State held on 3rd and 7th October, 2018.*
- h) *An order mandating or compelling the Defendants to recognize and accept the list of candidates that emerged winners in the Governorship, National and State Legislative Houses Primary Elections of the 1st Defendant in Zamfara State held on 3rd and 7th October, 2018.*
- i) *An order directing the Defendants to recognize only the result of the primary election of the 1st Defendant held on the 3rd and 7th of October, 2018 in Zamfara State.*
- j) *An order of perpetual injunction restraining the Defendants either by themselves, through their lawful agents, privies, or assign from taken (sic taking) any steps towards cancelling, rejecting the*

result of the primary election held on 3rd and 7th October, 2018 and monitored by the 3rd Defendant.

k) The cost of filing, and prosecuting this suit.”

The 1st and 2nd Appellants herein, as well as the 179th Respondent were the initial defendants at the trial court. Upon being served with the writ of summons and the statement of claim, the Appellants as well as the 180 Respondents, inter alia filed statements of defence accompanied by motions on notice in which they raised preliminary objections to the locus standi of the 141st – 143rd Respondents to maintain the action and the competence of the trial court to adjudicate on the claim. In reaction to the preliminary objections, the 141st – 143rd Respondents filed a motion on notice seeking inter alia to join the 144th – 178th Respondents and to amend the writ of summons and the statement of claim to reflect the new respondents. The Appellants’ statement of defence was filed on the 31st October, 2018 along with a motion on notice in which they applied for the claim of 141st – 178th Respondents to be dismissed or struck out for disclosing no cause of action, lack of legal capacity to maintain the action and lack of jurisdiction by the court. In the course of trial, the 1st – 140th

Respondents by a motion on notice sought to amend their statement of defence to incorporate a counter claim against the Appellants as well as 141st – 178th Respondents. The application was heard and granted on the 19th of December, 2018. The 141st – 178th Respondents filed a motion on notice containing a preliminary objection, challenging the competence of the counter claim on the ground that same was statute barred having been filed outside the 14 days period limited by Section 285(9) and 14 of the constitution as altered by the 4th Alteration Act No. 21 of 2017. In the course of trial, the 141st – 178th Respondents called one witness, by name Ibrahim Muhammad Dan Madami Birnin Magaji. Through this witness, several documents were tendered and admitted in evidence.

The Appellants rested their case on the 141st – 178th Respondents case. Mr. Anosike, learned counsel for the Appellants rested their case on the case of 141st – 178th Respondents after a futile attempt to tender from the bar a letter dated 10th October, 2018 from the office of the Chairman APC. The 179th Respondent called Salman Uwais as *DWI* while the 1st – 140th Respondents called Senator

Kabiru Garba Marafa who testified as **DW2**. The 180th Respondent rested his case on the case of 141st – 178th Respondents. After hearing evidence on 11th January, 2019, the Appellants withdrew their preliminary objection challenging the locus standi of the 141st – 178th Respondents and same was struck out. However, the 1st - 140th and 141st – 178th Respondents argued their preliminary objection to the competence of the action and counter claim respectively.

At the end of the trial and in a reserved and considered judgment delivered on the 2nd day of January, 2019, the trial court overruled the 1st – 140th Respondents' preliminary objection. The preliminary objection to the 1st – 140th Respondents' counter claim was upheld and same was struck out, on the ground that the counter claim being a pre-election matter within the contemplation of Section 285(9) and (14) of the 1999 Constitution of the Federal Republic of Nigeria was statute barred, having been filed outside the 14 days prescribed by law. On the main claim, the trial court entered judgment in favour of the 141st – 178th Respondents and granted all their reliefs. The court specifically directed, inter alia, the 179th Respondent to accept the list of names of

