**CHEVRON NIGERIA LIMTED**

**V.**

**THEOPHILUS NWUCHE & ORS**

IN THE COURT OF APPEAL OF NIGERIA

ON FRIDAY, THE 21ST DAY OF NOVEMBER, 2014

CA/PH/420/2005

**LEX (2014) - CA/PH/420/2005**

OTHER CITATIONS

2PLR/2016/9 (CA)

**BEFORE THEIR LORDSHIPS**

RAPHAEL CHIKWE AGBO, J.C.A

PETER OLABISI IGE, J.C.A

FREDERICK O. OHO , J.C.A

**BETWEEN**

CHEVRON NIGERIA LIMTED Appellant(s)

**AND**

1. THEOPHILUS NWUCHE

2. CHINEDU NWOKOMA

3. CHAMBERLINE DURU

4. LIVINUS UGORJI

5. LONGINUS OLOKO

(For themselves and representing the owners of land occupied by Chevron (Nig.) Ltd. at Umukene Ohaji in Ohaji Egbema L.G.) - Respondent(s)

**ORIGINATING COURT(S)**

IMO STATE HIGH COURT, OGUTA JUDICIAL DIVISION (Justice U. D. OGWURUIKE, Presiding)

**REPRESENTATION**

O. O. LANIYAN ESQ with C.C. CHIKERE Esq. - For Appellant

AND

R. E. OSUIWU Esq. - For Respondent

**ISSUES FROM THE CAUSE(S) OF ACTION**

OIL AND GAS LAW:- Sections 6 and 19 of the Oil Pipeline Act Cap 07 Laws of the Federation 2004 – Proper forum for initiating claims arising from oil exploration and mining

OIL AND GAS LAW:- Mining - Construction, operation and maintenances of an Oil Pipeline by a holder of Oil prospecting licence – Spillage and pollution due to the negligence in the handing of Oil wells – Whether deemed as having arisen from or connected with or pertaining to mines and minerals including Oil Fields and mining – Whether matter belong in the exclusive jurisdiction of the Federal High Court

ENVIRONMENTAL AND NATURAL RESOURCES LAW:- Claim for adequate/fair compensation for loss of use of land and damage to economic crops and trees – Proper court forum for same – Whether jurisdiction of State High Court ousted - Sections 6 and 19 of the Oil Pipeline Act Cap 07 Laws of the Federation 2004 – Whether applicable law

FOOD AND AGRICULTURE LAW:- Farmlands, economic trees and hunting grounds – Effect of oil exploration on same – Legal reliefs available to farmers and hunters – Proper forum for pursuing same

FOOD AND AGRICULTURE LAW:- Agricultural land and mining activities - Oil Pipeline Act Cap 07 Laws of the Federation 2004 – Need for prior consent of owner/occupier/person in charge of any cultivated land, garden or farm before carrying out any activity under a permit to survey pursuant to mining activity - Duty to take all reasonable steps to avoid unnecessary damage to any land entered upon and crops or profitable trees thereon – Duty to make compensation to the owners or occupiers for any damage done under such authority and not made good

CHILDREN AND WOMEN LAW:- *Children/Women and Environment* – Claim of community for compensation for loss of use of land and for economic crops/trees destroyed due to mining activities and infrastructure – How treated – *Women and Justice Administration –* Community’s claim for loss of use of land for agricultural and other economic purposes thrown out on technical ground relating to lack to lack of jurisdiction of court – Implication for wellbeing of women and children

JURISPRUDENCE AND PUBLIC LAW – COURT:- Sworn duty of every Judge in Nigeria has sworn to do justice according law – Duty not to limit the laws to be applied by a court in a case to only those authorities, statutory and judicial, which have been cited for the court's consideration by Counsel on both sides – Duty of court to include those judicially noticed as well as those relevant to the issues before the court which the court can from its own research find out

JURISPRUDENCE AND PUBLIC LAW – FEDERAL HIGH COURT:- Evolution of its jurisdiction – Enabling statutes - Federal High Court Amendment Decree No. 60 of 1991 which came into operation vide statutory instrument on 26th August 1993 but was soon subsumed by the provisions of Section 230 of the Constitution (Suspension and modification) Decree No. 107 of 1993 which came into effect on 17th day of November, 1993 – Re-enactment as Section 251 (1) (a)-(s) of the Constitution of the Federal Republic of Nigeria which came into force on 29th day of May, 1999

**PRACTICE AND PROCEDURE ISSUES**

ACTION - PRELIMINARY OBJECTION:- Right of a Defendant who conceives that ex-facie he has a good point or points of Law or jurisdiction that can in limine dispose or terminate a Claimant's Suit or action is entitled to bring an application before the trial court or appellate court where it concerns or touches the jurisdiction of the court trying the matter or the Appellate Court hearing an appeal – Effect where application is successful

ACTION – JURISDICTION AND APPLICABLE LAW:- Distinction between applicable law determining court with jurisdiction over a matter and applicable law for the determination of substantive issues in the matter – Whether it is the law in force at the time cause of action arose that governs determination of the Suit while the law in force at the time of trial based on cause of action determines the court vested with jurisdiction to try the case

ACTION - APPLICABLE LAW TO CAUSE OF ACTION:- What is the applicable law to be employed at the time cause of action accrued

ACTION - RELIEF:- Grant of - Whether the Court can grant a relief claimed under a wrong law

ACTION- ISSUE OF JURISDICTION:- What is required of a Defendant who conceives that he has a good point of Law to terminate a Claimant's Suit

COURT:- Wrong law – Principle that a court will not turn its back against a party in litigation merely because he has proceeded to seek for determination of an issue or matter under a wrong law – Duty of Court to decree in favour of such a litigant relief under the relevant and appropriate law if able to prove or establish right to the relief sought – Whether in order to benefit from the principle the facts relied upon must support the correct law to be applied

COURT - JURISDICTION OF THE FEDERAL HIGH COURT:- Basis and extent of the jurisdiction of the Federal High Court - How determined the jurisdiction of the Federal/State High Courts

EVIDENCE - JUDICIAL NOTICE:- Whether the court has a duty to take judicial notice of all relevant laws before it

JURISDICTION:- Meaning and essence of jurisdiction of court – Duty of court whenever raised

JURISDICTION:- Where Court needs to determine which of two courts is endowed with jurisdiction – Need for recourse to be had to the endorsement on the Writ of Summons and the Statement of Claim and not on the Statement of Defence

INTERPRETATION OF STATUTE:- Sections 6 and 19 of the Oil Pipeline Act Cap 07 Laws of the Federation 2004

INTERPRETATION OF STATUTE - RULE OF INTERPRETATION OF STATUTE:- The position of the law with regards to the interpretation of statute

**MAIN JUDGMENT**

PETER OLABISI IGE, J.C.A. (DELIVERING THE LEADING JUDGMENT):

This is an Appeal against the Ruling of Imo State High Court sitting at OGUTA JUDICIAL DIVISION contained in the Ruling of Honourable Justice U. D. OGWURUIKE delivered on 22nd day of July, 2003.

The Respondents had approached the said Court on 6th day of June, 2000, for the issuance of a Writ of Summons against the Appellant (at the Court below) wherein the Respondents claimed against the Appellant the following reliefs to wit:

"The Plaintiff claims against the defendant as follows:

(a) A Declaration that the token sum of N2,605.800.00 (Two Million Six Hundred and Five Thousand Eight Hundred Naira) paid by the defendant to the plaintiffs in 1996 is compensation for the economic crops and trees belong to the plaintiffs which were destroyed by the defendant in the plaintiff's land which situate and lying at Umukene Ohaji in the Ohaji/Egbema Local Government Area of Imo State, measuring approximately 50 (fifty) hectares and not compensation or fair and adequate compensation for the loss of use of the said land within the spirit and intendment of the oil pipe lines enactment.

(b) The sum of Two Million Naira (N2,000.000.00) per hectare for a period of 20 years from 1996 to 2016 as compensation for the loss of the use of the said land measuring approximately 50 hectares in area which situate and lying at Umukene Ohaji in the Ohaji/Egbema Local Government Area upon which Chevron Nigeria Limited is carrying on exploitation and/or exploration for mineral oil.

(c) An Order of court in the alternative, that an independent registered Estate Valuer acceptable by both parties be retained to put a proper, fair and adequate capital value for the 20 years period for the loss of use of the said land from 1996 to 2016.

(d) An Order of this Honourable Court that the defendant pay a fair adequate compensation as may be assessed by the said Estate Valuer for the 20 years period from 1996 to 2016."

Similar reliefs were replicated in paragraph 15 (a) (b) (c) (d) of the Respondents Statement of Claim (pages 6-7 of the record) filed on 6th day of June, 2000. The Respondent/Appellant filed her Statement of Defence in the matter on 6th day of December, 2000 wherein she pleaded in paragraphs 14 and 15 thereof thus:

"14. The Defendant shall further contend at the trial of this action that the Defendant is not entitled to pay compensation twice over the said land.

15. The Defendant shall further contend at the trial of this action that this honourable court lacks the jurisdiction to entertain this suit as it is a matter pertaining to oilfield and mining."

The Appellant followed this up by filing a Notice of Preliminary Objection dated 5th day of November, 2001 on 6th day of November, 2001. It reads:

"NOTICE OF PRELIMINARY OBJECTION

TAKE NOTICE that Counsel on behalf of the Defendant/Applicant shall on the 22nd day of January, 2002 raise the following preliminary objection to this suit. The Plaintiffs' action before this Honourable Court is incompetent as this Honourable Court lacks jurisdiction to entertain the matter by virtue of section 230(1)(0) of the Constitution (Suspension and Modification) Decree No. 107 of 1993 and S.7(1)(p) of the Federal High Court (Amendment) Decree No. 60 of 1991)

GROUNDS OF OBJECTION

1. That the alleged/purported cause of action in this suit is based upon the oil mining and oil exploration activities of the Defendant/Applicant at its oilfields which is covered by the Defendant's Oil Mining Lease.

2. By virtue of S.230(1)(0) of the Constitution (Suspension and Modification) Decree No. 107 of 1993 and s. 7(1)(p) of the Federal High Court (Amendment) Decree No. 60 of 1991, all such civil causes and matters arising therefrom are within the exclusive jurisdiction of the Federal High Court."

The said Notice of Preliminary objection was supported by 7 paragraph Affidavit deposed to by one EKERE AKPAN and it was therein deposed as follows:

"I, Ekere Akpan, Nigerian, male, Christian, Litigation Clerk of No. 23 Mbonu Street D/Line, Port Harcourt, Rivers State do hereby make oath and state as follows:

1. That I am a Litigation Clerk in the firm of Miannaya Aja Essien & Associates, Legal Practitioners to the Defendant/Applicant herein and by virtue of this, I am familiar with the facts of this case.

2. That I have the consent and authority of the Defendant/Applicant herein and the said firm of Legal Practitioners to depose to this affidavit.

3. That I am informed by C. D. Nwankwo Esq. Counsel in the firm of Miannaya Aja Essien & Associates whom I verily believe that the claim of the Plaintiffs/Respondents as endorsed on the writ of summons is from matters arising from the activities of the Defendant/Applicant in the course of its oil mining activities at its Amara Location oil field.

4. That I am informed by the said Mr. C. D. Nwankwo, whom I verily believe that, paragraph 15(b) of the statement of claim in this suit clearly states that the land, the subject matter of the suit is being used by the Defendant/Applicant for carrying on the exploitation and/or exploration of mineral oil.

5. That this affidavit is in support of our notice of preliminary objection.

6. That it is in the interest of justice that this application be granted and the grant of same shall not prejudice the Plaintiffs/Applicants.

7. That I make this affidavit conscientiously and in good faith believing same to be true and correct and in accordance with the Oaths Act Cap. 33 L.F.N. 1990.

(Sgd) Deponent

Sworn to at the High Court

Registry, Oguta this 6th day of November, 2001.

Before Me

(Sgd) Commissioner for Oaths."

The main pedestal upon which the Appellant founded her objection was that the matter or action of the Respondent has to do with Oil mining and oil exploration. The Appellant consequently claimed that by combined provisions of section 230(1)(o) of the constitution (suspension and Modification Decree No. 107 of 1993 and Section 7(1)(p) of the Federal High Court (Amendment) Decree No. 60 of 1991, the Respondents suit and reliefs therein could only be adjudicated upon at the Federal High Court and NOT at Imo State High Court.

The Lower Court took arguments on the application and in his Ruling on the objection, the learned trial Judge held as follows:

"S. 251(1)(n) of the 1999 Constitution contains similar provisions except that the words "arising from" as used in s.230(1)(0) of Decree 107 of 1993 and "connected with or pertaining to" used in S. 7(1)(p) the Federal High Court Act as amended are omitted.

The question now to be addressed is whether from the claim of the plaintiffs as contained in the writ of Summons and Statement of Claim, this court has no jurisdiction to entertain this suit in the light of S. 230(1)(o) of the 1979 Constitution as amended and S.7(1)(p) of the Federal High Court Act as amended. From the claim of the plaintiffs it is evident that it is for compensation for loss of use of the land in question. The purpose for which the defendant is using the land is not material. This is because the claim does not arise, from nor is it connected with or pertain to that purpose but it is a claim purely for compensation to the plaintiffs for the loss of use of the land in question. In my view the laws above mentioned relied on by the defendant/applicant cannot preclude this court from entertaining the present suit. The case of SPDC v. Isaiah (supra) referred to by learned counsel for the defendant/applicant has to do with a Claim for compensation for damage oil pipeline and does not apply to the present case which has nothing to do with oil spillage from pipelines. The case of Nigeria Agip Oil Co. Ltd. v. Kemmer (supra) which has to do with compensation from the defendant for the defendant's disturbance of the plaintiffs' surface rights and loss of use of the plaintiff's land is, in my view, relevant to this case. In that case the Court of Appeal at page 1264 paragraphs C. D. stated inter alia, per Acholonu, J.C.A. as he then was that a mere landlord and tenant relationship cannot be made to wear a garb connecting it with subject matters of mining of Oil prospecting.

In the light of the forgoing, I am satisfied that this Court has jurisdiction to entertain this suit I so hold. This application of the defendant/applicant is misconceived and accordingly hereby dismissed. The defendant/applicant shall pay the sum of N1,000.00 as costs to the Plaintiffs/Respondents.

(Sgd) U. D. Ogwurike

Judge

22/7/2003"

Aggrieved by the decision of the Learned trial Judge, the Appellant lodged this appeal against the Ruling of the Lower Court.

The Appellant's Notice of Appeal dated 30th day of January, 2004 was filed pursuant to the leave of this Court on 3rd day of February, 2004. The said Notice of Appeal contains two grounds of appeal which are as follows:

**3. GROUNDS OF APPEAL**

(1) The Learned Trial Judge erred in law when he held that the High Court holden at Oguta had jurisdiction to entertain the suit.

Particulars:

i. The Plaintiff's Claim as disclosed on the writ of summons and statement of claim directly relates to and is connected with and or pertains to oil mining activities of the Defendant at its oilfield.

ii. The Defendants said operations are within the contemplation of S. 230(1)(o) of the 1979 Constitution as amended by the Constitution (Suspension and Modification Decree No. 107 of 1993 and S. 7(1)(p) of the Federal High court Act (as amended).

iii. An action for payment of compensation over an oilfield wherein the Appellant is carrying out oil mining and oil exploration is within the exclusive jurisdiction of the Federal High court.

2. The Learned trial Judge misdirected himself when he held that the purpose for which the Defendant was using the land is immaterial.

Particulars of Misdirection

i. Paragraphs 3 and 4 of the Plaintiffs Statement of Claim clearly state that the Defendant is using the said land for mineral oil exploitation and or exploration.

ii. S.230(1)(0) of the said Constitution confers jurisdiction in any civil cause and matters arising from oilfields within the jurisdiction of the Federal High Court.

iii. Any such civil cause or matter such as payment for compensation for loss of use is connected to and pertains to oilfields and oil mining.

4. RELIEFS SOUGHT FROM THE COURT OF APPEAL

i. To set aside the ruling and orders of the Lower Court.

ii. To strike out and/or dismiss the Plaintiff/Respondents' action on the grounds that the Lower Court lacks the jurisdiction."

The Appellant filed her Brief of Argument dated 22nd day of May, 2006 on the 25th day of May 2006. The said Appellant's Brief was deemed properly filed on 21st day of May, 2007.

The Respondents Brief of Argument dated the 27th day of June, 2007 was filed on 28th day of June 2007. The appeal was heard on 30th day of September, 2014 when the Learned Counsel to the Appellant and the Respondents adopted their respective Brief of Arguments.

The Appellant formulated one (1) issue for determination of this appeal namely:

"THE APPELLANT SUBMITS THAT FROM THE GROUNDS OF APPEAL THE SOLE ISSUE FOR DETERMINATION THAT ARISES IS WHETHER THE STATE HIGH COURT HAS THE JURISDICTION TO ENTERTAIN THE SUIT"

On their own part the Respondents also distilled one issue for determination of the appeal thus:

"WHETHER THE LEARNED TRIAL JUDGE WAS RIGHT IN HOLDING THAT THE COURT HAS JURISDICTION TO ENTERTAIN THE PLAINTIFFS' CLAIM."

This appeal will be determined on the sole issue formulated by the Appellant viz:

"WHETHER THE STATE HIGH COURT HAS THE JURISDICTION TO ENTERTAIN THE SUIT"

The Learned Counsel to the Appellant submitted that the Lower Court had no jurisdiction to entertain the suit. Reference was made to paragraphs 4, 6-7, 11, 13 and 15(b) of Statement of Claim to state that the pleaded case of the Respondents is that the Land over which the Respondents are claiming compensation is being used by the Appellant for carrying on the exploitation or exploration of oil and that the Appellant damaged their economic trees and crops in the course of its oil mining and exploration activities the Appellant stated the Appellant supported her objection with an Affidavit but the Respondent did not file any Counter Affidavit to the said Affidavit in Support while conceding that in determining whether the Court has jurisdiction the writ and Statement of Claim are to be examined. The Appellant posited that Affidavit evidence filed is also relevant in the determination of jurisdiction because the Affidavit has put all the facts before the Court. Reliance was placed on the cases of:

1. A-G FED v. ANPP 2003 18 NWLR (PART 851) 182 at 207 and

2. NWAGBOSO v. EJIOGU (1997) 10 NWLR (PART 527) 173 at 177 F - H.

The Appellant submitted that the combined effect of Section 230(1)(0) of the Constitution (suspension and modification) Decree No. 107 of 1993, and Section 7(1)(p) 7(3) and 7(5) of the Federal High Court Act 60 is that the State High Court cannot entertain matters that are ancillary to, relating to, arising from, connected to or pertaining to oil fields and mining. The Appellant submitted that the facts of this case fall within the definition of matters connected within or pertaining to oil field, oil mining etc., and that this case is not a simple claim concerning entitlement to compensation for land according to the Learned Counsel to the Appellant. That the Respondents' case was that their crops were damaged while the Appellant was mining for oil at the oilfield in question and that that was the Respondents cause of action. That the Learned trial Judge erred in holding that the Respondents claim is purely for compensation for the loss of use of land in question. That the Learned trial Judge was wrong because Section 230(1)(0) of the 1979 Constitution as amended and Federal High Court Amendment Act specifically mentioned "Oil fields and Oil Mining". Appellant submitted that since the Supreme Court decision in SDPC v. ISAIAH (2001) 11 NWLR (PART 723) 179 at 180 H-A it has been settled that jurisdiction to entertain all causes or matters connected to or pertaining to oil mining etc lies within the exclusive purview of the Federal High Court. The Appellant also relied on the Supreme Court decision in the case of C.G.G. (NIG) LTD. v. CHIEF LAWRENCE OGU (2005) & NWLR (PART 927) 36 at 381 C-F and the cases of (1) SDPC v. MAXON (2001) 9 NWLR (PART 719) 541 at 553-554 G-D (2) MPIDI BARRY v. ERIC (1998) & NWLR (PART 562) 404 and (3) C.G.G. v. ASAGBARA (2001) NWLR (PART 693) 155.

That the jurisdiction of the State High Court has therefore been entirely ousted with regard to the Respondents' Claims in the matter which the Appellant insists relates to claims arising from the exploration for mineral oil. That the Court can only exercise its jurisdiction in accordance with the Primary Law of the Land and that it is obliged to interpret the Law accordingly.

It was the further submission of the Appellant that under the doctrine of stare decisis, the principle of Law in SDPDC v. ISAIAH and C.G.G. v. OGU Supra are applicable. That the Lower Court was therefore in error when it held that the applicable case was NIGERIAN AGIP CO. LTD. v. DEMMER (2001) & NWLR (PART 716) 506. The Appellant is of the view that the case relied upon by the trial Judge was strictly on the interpretation of a leasehold agreement and had nothing to do with oil mining or compensation payable for damages caused in the course of oil exploration. This Court is being urged by the Appellant to allow the appeal in favour of the Appellant by setting aside the ruling of the Lower Court and uphold the preliminary objection.

In response to the Appellant's submissions L. C. Ugorji Esq. for the Respondents stated that in determining the jurisdiction of the Court, the only documents to look at are the Writ of Summons and Statement of Claim and not Statement of Defence or Affidavit. He relied on the case of GARJI v. GARJI (2007) ALL FWLR (Pt. 346) 494 at 497. That it is the substantive law at the time the cause of action arose that governs the case while the procedural law at the time of the hearing of action will be applicable to the case. He relied on the following cases:

1. C.G.G. NIG. LTD. v. ASAGBARA (2000) FWLR (PART 17) 110 at 112.

2. MOBIL PROD. (NIG) UNLIMITED v. LASEPA (2002) 18 NWLR (PART 79) 1 at 12.

3. and OLUTOLA v. UNIVERSITY OF ILORIN (2005) ALL FWLR (PART 245) 1143, at 1154.

That as at year 2000 when the Respondent instituted the action, it was Section 251(1) of the 1999 Constitution that conferred jurisdiction on the Federal High Court and no other Law. The Respondent are of the view that all the cases cited and relied upon by the Appellant were decided based on Procedural Law in force at the time those cases were decided which were Section 7 of Decree No. 60 of 1991 and Section 230 of Decree No. 107 of 1993.

The Respondent contended that the provisions of those Laws and jurisdiction conferred are not the same as the jurisdiction provided by Section 251(1)(n) of the 1999 Constitution, the provisions of the said Laws and the Constitution were reproduced by the Respondent's Learned Counsel while arguing that the words "connected with" "pertaining to" arising from are words of expansion of jurisdiction of Federal High Court while diminishing the jurisdiction of the State High Court as contained in Section 236 of 1979 Constitution. He cited and relied on the case of ACHEBE v. NWOSU (2003) 7 NWLR (Pt. 818) 103 AT 117 - 118 and the case of JOHN ERONINI v. C.G.G. NIG. LTD. which Learned Counsel said was delivered on 16th day of July, 2002 by U. D. Ogwuruike, J. that the contention of the Appellant stating that the applicable Law are Section 230(1)(0) of the Constitution (Suspension and modification) Decree No. 107 of 1993 and Section 7(1)(p), Section 7(3) and Section 7(5) of the Federal High Court Act (as amended by Act 60) is highly erroneous. The Respondent submitted that the said Laws are deemed to be Act of National Assembly. He submitted that the National Assembly has no powers to make Law which has the effect of adding or subtract from any provision of 1999 Constitution. The following cases were cited and relied upon namely;

1. MINISTER FOR WORKS AND HOUSING v. THOMAS (NIGERIA) LTD. (2002) 2 NWLR (PART 752) 750 AT 754.

2. MUSA v. INEC (2002) 11 NWLR (PART 778) 223 at 255-258 and

3. ABIA STATE & ORS v. A-G FEDERATION (2002) 6 NWLR (PART 763) 64 at 369.

The Learned Counsel to the Respondents then submitted that:

"The provisions of Section 251(1)(n) of 1999 Constitution is very clear and unambiguous on the jurisdiction it provided i.e. dispute involving mines, oil field etc. therefore to the extent that decree No. 60 of 1991 and DEGREE NO. 107 of 1993 contained the expansive words "connected with" pertaining to "arising from" all of the tendency to expand the jurisdiction of the Federal High Court as provided in Section 251(1)(n) of 1999 Constitution and diminishing the jurisdiction of the State High Court as provided in Section 276(sic) of the 1999 Constitution, then (Decree 60 of 1991) and (Decree 107 of 1993) are in conflict with the provisions of Section 251(1)(n) of the Constitution and therefore void.

Decrees No. 60 1991 and No. 107 of 1993 are equally invalid and in operative for duplication and inconsistency"

That where the Language of a Law is clear no other intention should be imported into it relying on the cases of; UMOH v. NKAN (2001) 3 NWLR (Pt. 701) 512 at 515 and SHELL PETROLEUM NIGERIAN LIMITED v. AMARO (2000) 10 NWLR (PART 675) 248 at 252-254.

That even if it can be said that the provisions of Section 251(1)(n) of the Constitution is not clear, the Respondent admonish this Court to look at the intention of the Legislature. He cited the following cases:

1. NIGERIAN POSTAL SERVICES v. ADEPOHI (2003) FWLR (Pt. 147) 1060 at 1064.

2. DANTOSHO v. MOHAMMED (2003) 6 NWLR (PART 817) 547 at 474.

3. ENYINNAYA v. C.O.P. (1985) NCLR 464 at 468.

4. ALAMESEIGHA v. TEIWA (2002) FWLR (Pt. 96) 552 at 559.

5. ACHEBE v. NWOSU (2003) 7 NWLR (PART 818) 103 at 117-118.

6. SHITTU v. NIGERIAN AGRIC & COOPERATIVE BANK LTD. (2001) 10 NWLR (Pt. 721) 298 at 304-305.

7. TOGUN v. OPUTA (NO. 2) (2001) 16 NWLR (PART 740) 597 at 621.

8. BRONIK MOTORS LTD. & ANOR v. WEMA BANK LTD. (1983) ALL NLR 272 at 272-273.

The Respondents submitted further that the Legislature has seen the problems created by the words "connected with" "pertaining to" a arising from contained in Section 7 of Decree No. 60 of 1991 and Decree No. 107 of 1993 Section 230(1) thereof hence the Phrases were omitted in Section 251(1)(n) of 1999 Constitution, leaving only the dispute involving mines and minerals (including oil fields etc.) within the jurisdiction of the Federal High Court.

That when the Constitution has made provision for a particular act or has provided for a particular jurisdiction any Legislation which attempts to add, alter or duplicate or even repeat what the Constitution has already provided will remain invalid. He relied again on MUSA v. INEC Supra and A-G OF ABIA STATE & 35 ORS v. A-G Federation Supra.

The Learned Counsel therefore submitted that

"... the issue of stare decisis which the Appellant laid so much emphasis on becomes a non issue" relying on JUSTICE PARTY v. INEC (2003) 52 WRN 84 at 88.

That Section 251(1)(n) was not in issue in some of the cases to warrant the decisions on it to be binding on the lower Court. He cited and relied on the following cases viz:

1. BUHARI v. OBASANJO (NO. 3) (2004) 1 WRN 1 at 5.

2. C.G.G. (NIG) LTD v. CHIEF LAWRENCE (2005) & NWLR (Pt. 927) 36 and

3. ADISA v. OYINWOLA (2000) 10 NWLR (Pt. 674) 116 at 128-129.

The Respondents further went on to contend that the National Assembly has powers to make Law in respect of matters on exclusive and Concurrent Legislative List but has no power to make any Law within Residual List. That tort and land matters are not within the Legislative List over which National Assembly can make Laws. He relied on the cases of ELEGUSHI v. ATTORNEY-GENERAL OF THE FEDERATION (2000) FWLR (Pt. 1) 89 at 93 and NIGERIA AGIP OIL COMPANY LIMITED v. KEMMER (2001) 8 NWLR (PART 716) 506 at 511.

The Respondents concluded by stating that the claim endorsed on the Statement of Claim is for compensation for acquired Land and not dispute involving mines and mineral including oilfield and geological survey as provided for in Section 251(1)(n) of 1999 Constitution.

The Respondents urged this Court to hold that the Lower Court was right in holding that it has jurisdiction to entertain the Plaintiffs Claim.

In its reply brief the Appellant insisted that the applicable Law is Section 230(1) of the Constitution (Suspension and Modification Decree No. 107 of 1993 but also argued that even if Section 251(1)(n) of the Constitution of the Federal Republic is the applicable Law, the provisions of the said Section 230(1) of the Decree 107 of 1993 are in pari materia with Section 251(1)(n). That the position of the Law remains the same and that all the cases cited by the Appellant are relevant and applicable. Reliance was placed on the cases of NDIC v. OKEM (2004) 10 NWLR (PART 880) 107 at 173 C-D and 182-183 H-A.

The Appellant Learned Counsel MRS. M. A. ESSIEN who settled the Appellants brief also made reference to the case of OBI v. INEC (2007) 11 NWLR (PART 1046) 565 at 636-637 on the meaning of the word "notwithstanding" in Section 251(1) of the 1999 Constitution and the dictionary meaning of the words "in addition to" to submit as follows:

"It is clear that the combination of "notwithstanding" and in addition to" as used in Section 251(1) means nothing shall derogate from the jurisdiction of the Federal High Court as contained in both S.251 and S.7 of the Federal High Court Act in its entirety. We further submit that S. 251(1) is a special Section that cannot be derogated from by the Constitution, as the Constitution itself has said nothing shall impede it. Therefore even S. 1(3) of the 1999 Constitution will not apply. This is in accord with decision of the Supreme Court in NDIC v. OKEM Supra."

That the Respondent's arguments be rejected and the appeal allowed.

The mainstay of the Appellant's appeal is that the Lower Court has no jurisdiction to entertain the Respondent's suit having regard to the provisions of the provisions of Section 230(1)(o) of the Constitution (Suspension and Modification) Decree No. 107 of 1993 which is similar to Section 251(1)(n) of the Constitution of the Federal Republic of Nigeria 1999 and Sections 7(1)(p), 7(3) and 7(5) of the Federal High Court Act (as amended) by Decree No. 60 of 1991.

It is trite Law that a Defendant who conceives that ex-facie he has a good point or points of Law or jurisdiction that can in limine dispose or terminate a Claimant's Suit or action is entitled to bring an application before the trial court or appellate court where it concerns or touches the jurisdiction of the court trying the matter or the Appellate Court hearing an appeal. The jurisdiction has been described variously as the backbone, spinal cord, life wire and life line of a Court. Thus the nature and importance of jurisdiction has been underscored and lucidly stated and restated by the Supreme Court of Nigeria and this Court in many cases. See:

1. AFRO CONTINENTAL (NIG) LTD & ANOR v. COOPERATIVE ASSOCIATION of PROFESSIONAL INC. (2003) 5 NWLR (PART 813) 303 at 318 G-H to 319a KALGO, JSC had this to say:-

"It is well settled that jurisdiction is the body and soul of every judicial proceedings before any Court or tribunal and without it all subsequent proceedings are fruitless, futile and a nullity because the issue of jurisdiction is fundamental to the proper hearing of a case."

2. NIGERIAN NATIONAL PETROLEUM CORPORATION & ANOR v. CHIEF STEPHEN ORHIOWASELE (2013) 10 SCM 126 at 134 H-I to 135 A-B where RHODES -VIVOUR, JSC.

The position was reemphasized recently in the case of CHRISTOPHER OKWARA MBAH v. THE STATE (2014) 6 SCM 102 at 114 C-D per I. T. MUHAMMED, J.S.C. who said as follows:-

"Jurisdiction, it is said, my Lords, is the Life - wire of Litigation. It is the authority which a Court has to decide matters before it or to take cognizance of matters presented before it for decision. See Ndaewo v. Ogunaya (1977) 1 SC 11; Miscellaneous Offences tribunal v. Okoroafor (2001) 18 NWLR (Pt. 745) 295 at P. 326-327 H-A. Where a Court, whether inferior or Superior, lacks it, it cannot entertain the matter, civil or criminal, sought to be placed before it for Litigation as the defect in jurisdiction is fatal to the proceedings however well conducted and is extrinsic to the adjudication."

And in the recent case of ECONOMIC AND FINANCIAL CRIMES COMMISSION 7 ORS v. PHILIP ODIGIE (2013) 17 NWLR (PART 1384) 607 at 622 G - H to 623 A - B this Court PER YAKUBU, JCA, said thus:

"the paramountcy and quintessence of jurisdiction in an action in Court for adjudication is aptly captured, in the judicial words on marble by my Lord Bello, CJN (now of blessed memory) that jurisdiction is blood that gives life to the survival of an action in a Court of Law and without jurisdiction; the action will be like animal that has been drained of its blood. It will cease to have life and any attempt to resuscitate it without infusing blood into it would be abortive exercise ...Therefore, jurisdiction is the green light that gives the Court, the authority to proceed with consideration and determination of the matter placed before it for adjudication."

When jurisdiction of a Court is challenged therefore, the issue must be promptly attended to by the Court seized of the matter so as to settle it one way or another.

The sole issue for determination has brought to the fore again the implications of Section 230(1)(0) of the Constitution (Suspension and Modification) Decree No. 107 of 1993 which the Appellant claims is the applicable Law at the time the cause of action arose in this case and Section 251(1)(n) of 1999 Constitution which the Respondent vehemently argued is the applicable Law. Also relevant is Section 7 of the Federal High Court Act (as amended) by Decree No. 60 of 1991. This has always raised recondite or difficult issue of jurisdiction as between the State High Courts and the Federal High Court in the Federation.

In order to decipher or determine which of the two courts has or is endowed with jurisdiction recourse must be had to the endorsement on the Writ of Summons and the Statement of Claim and not on the Statement of Defence. See:

1. PDP v. TIMIPRE SYLVA & ORS. (2012) 13 NWLR (PART 1316) 85 at 127 E-F per RHODES-VIVOUR, JSC who held that:

"Jurisdiction of a Court to entertain a Suit is resolved by scrupulous examination of the Writ of Summons, the Statement of Claim and the reliefs claimed. No other document should be examined."

2. DR. TAIWO OLORUNTOBA-OJU & ORS. v. PRO. P. A. DOPAMU & ORS. (2008) NWLR (PART 1085) 1 at 22H to 23A per OGUNTADE, JSC.

I have earlier on in this judgment reproduced the reliefs laid out on the Writ of Summons. It is also relevant to reproduce the entire paragraphs of the Statement of Claim in the action. It reads:-

STATEMENT OF CLAIM

"1. The plaintiffs are farmers, hunters, etc. and natives of and reside at Umukene Ohaji in the Ohaji/Egbema Local Government Area within jurisdiction.

2. The defendant is a private Oil Company incorporated in Nigeria and carrying out commercial activities for profit with ... Division Office at Trans Amadi Industrial Layout, Port Harcourt Rivers State.

3. The plaintiffs are the beneficial owners in possession and the purposes of the Land Use Act entitled to Customary Right of Occupancy over all that pieces and parcels of Land measuring approximately 50 hectares which situate and lying at Umukene Ohaji in the Ohaji/Egbema Local Government Area of Imo State upon which Chevron Nigeria Limited (the defendant) is carrying on mineral oil exploitation and/or exploration.

4. Sometime in 1996, the defendant broke and entered the said land defined in paragraph 3 above and occupied same paying them a token sum representing compensation for all economic trees and crops it destroyed in its exploitation and/or exploration for mineral oil without paying for the loss of the surface right of the said land.

5. The plaintiffs shall contend that the defendant occupation of the said pieces and parcels of land defined in paragraph 3 above (hereinafter called "the Said Land") have been depriving the plaintiffs of their hunting, farming, lumbering, fishing, animal husbandry right which are their occupation and source of livelihood.

6. The plaintiffs also aver that the defendant's activities have rendered the said land and the adjoining lands impossible of gainful use by the plaintiffs and their kinsfolk. The plaintiff will show further that the defendant dug column of trench through the said land using monster trucks, tractors, excavators, welding machine etc. in the process. This scared off hunting wild lives etc.

7. The plaintiffs aver that the defendant excavated earth materials from the said land which in the process of back ... had the effect of raising the column of trench beyond its pre construction ground level thereby causing the plaintiffs mischief and hardship as a result of ensuing dams across their erstwhile farm land etc.

8. The plaintiffs shall at the trial contend that the defendant occupied the said land by misrepresentation to them that the defendant's company was a federally owned concern and therefore its activities on the said land is in the national and public interest.

PARTICULARS OF MISREPRESENTATION

(a) That the Mineral Oil is a federally owned concern.

(b) That the defendant's activities on the said land is in the national and public interest.

(c) That the activities of the defendants are not actuated by purely commercial profit making, hence the defendant never offered any compensation for the loss of the use of the said land and for havoc caused and still being caused the plaintiffs on the said land.

9. It was only recently and after a thorough enquiry that the plaintiffs discovered that the defendant is a private Oil Company carrying on purely commercial activities for its profit motives which discovery aggrieved the plaintiffs.

10. The plaintiffs aver that the defendant has continued to occupy the said land without paying any compensation for the loss of the use of surface right of the said land.

11. The plaintiffs have made several demands to the defendant for payment of compensation for the loss of their surface right of the said land but the defendant has refused, neglected and/or failed to do so.

12. The plaintiffs also through their solicitor wrote letters demanding compensation for the loss of use of the said land still the defendant refused, neglected or failed to do so. The plaintiffs shall at the trial found and rely upon the said letters of demand. The defendant is hereby given notice to produce the original copies of same.

13. The plaintiffs aver that the activities of the defendant said land described in paragraph 3 above have been causing great havoc and inflicting severe damages and losses to the plaintiffs. The defendant did not take precaution to promote the lives and properties of the plaintiffs from its hazardous activities on the said land.

14. The plaintiffs shall at the trial show that the defendant and other Oil Companies pay up to Two Million Naira (N2,000,000,00) per hectare for a period of 20 years for similar lands they occupy.

15. WHEREFORE the plaintiffs claim against the defendant as follows:

(a) A Declaration that the token sum of N2,605,800.00 (Two Million Six Hundred and Five Thousand, Eight Hundred Naira) paid by the defendant to the plaintiffs in 1996 is compensation for the economic crops and trees belonging to the plaintiffs which were destroyed by the defendant on the plaintiffs' land which situate and lying at Umukene Ohaji in the Ohaji/Egbema Local Government Area, measuring approximately 50 hectares in Area and not compensation or fair and adequate compensation for the loss of use of the said land within the spirit and intendment of the oil pipe lines enactment.

(b) The sum of two Million Naira (N2,000.000.00) per hectare for a period of 20 years as compensation for the loss of the use of the said land measuring approximately 50 hectares in area which situate and lying at Umukene Ohaji in the Ohaji Local Government Area upon which Chevron Nigeria Limited is carrying on exploitation and /or exploration for mineral oil.

(c) An Order of court, in the alternative, that an independent registered State Valuer acceptable by both parties be retained to put a proper, fair and adequate capital value for the 20 years period for loss of the use of the said land from 1996 to 2016.

(d) An Order of this Honourable court that the defendant pay a fair and adequate compensation as may be assessed by the said Estate Valuer for the 20 years period from 1996 to 2016."

As can be seen from the Statement of Claim just reproduced, the cause of action accrued to the Plaintiffs now Respondents sometime in 1996. The law is well settled that it is the law in existence as at the time cause of action accrued that will be applicable to govern the institution of an action. The law applicable at the time of the determination of the action may however be different. See the case of ISAAC OBIUWEUBI v. CENTRAL BANK OF NIGERIA (2011) 7 NWLR (PART 1247) 465 at 495 B-D where RHODES-VIVOUR, JSC held thus:-

"The law in force or existing at the time the action arose is the law applicable for determining the case. This law does not necessarily determine the jurisdiction of the court at the time that jurisdiction is invoked. That is to say, the law in force at the time cause of action arose governs determination of the Suit while the law in force at the time of trial based on cause of action determines the court vested with jurisdiction to try the case for example, Decree 107 of 1993 came into force on 17/11/93. A litigant who had a cause of action in 1990 would have his case governed by the law at the time (i.e. 1990). If trial commences before 1993 the court to try the case would be the State High Court but if after 17/11/93 the case would be tried in the Federal High Court."

The same position was reiterated in the case of NNPC & ANR v. CHIEF STEPHEN ORHIOWASELE & ORS (2013) 10 SCM 126 at 137 C-G per RHODES-VIVOUR, JSC.

The Appellant had insisted in paragraph 3.6 of her Brief of Argument that the applicable laws for the just determination of this appeal are:

(1) Section 230 (1)(0) of the Constitution (suspension and modification) Decree No107 of 1993. The Appellant stated that this was the applicable law when the cause of action arose.

(2) Section 7(1) (p), Section 7(3) and 7(5) of the Federal High court Act (as amended) by Act No. 60.

The Respondents differed from the position taken by the Appellant and stated that at the time the Plaintiffs now Respondents commenced their action against the appellant in the year 2000 it was Section 251 (1) of the 1999 Constitution that conferred jurisdiction on the Federal High Court and no other law. It was therefore contended on their behalf in paragraph 5.25 of the Respondents' Brief of Argument that:

"The jurisdiction expressly conferred on the State High Court in respect of dispute involving compensation for land acquired or injury to land as provided in Sections 19 and 20 of Oil Pipeline Act has not been removed by the Constitution."

I am of the view that upon a calm reading of the Claims of the Respondents as endorsed on their writ of Summons and postulated in the Statement of Claim, the laws that are relevant and applicable which of necessity I must take judicial Notice of them for consideration of this appeal are the following:-

1. OIL PIPELINES ACT CAP 07

2. SECTION 251(1) (N) OF THE CONSTITUTION OF THE FEDERAL REPUBLIC OF NIGERIA 1999 AS AMENDED OR ALTERED.

3. FEDERAL HIGH COURT ACT CAP. F12 LFN 2004.

See LT. COL. MRS. R. A. F. FINNIH v. J. O. IMADE (1992) NWLR (PART 219) 511 AT 532 H to 533 A-B. In his contribution in the just cited case NNAEMEKA AGU, JSC said thus:

"Every Judge in Nigeria has sworn to do justice according law. The laws to be applied by a court in all cases are not limited to only those authorities, statutory and judicial, which have been cited for the court's consideration by Counsel on both sides. Rather, they include those laws which the court can judicially notice as well as those relevant to the issues before the court which the court can from its own research find out. If Judges do otherwise they will be deciding contrary to laws which they have sworn to uphold."

The provisions of the Federal High Court Amendment Decree No. 60 of 1991 which came into operation vide statutory instrument on 26th August 1993 was soon subsumed by the provisions of Section 230 of the Constitution (Suspension and modification) Decree No. 107 of 1993 which came into effect on 17th day of November, 1993. The jurisdiction conferred on the Federal High Court vide Federal High court Act (Amendment) of 1991 and as contained in Decree 107 of 1993 on various matters listed in them were later transferred and enacted as Section 251 (1) (a)-(s) of the Constitution of the Federal Republic of Nigeria which came into force on 29th day of May, 1999 at the twilight of Military Administration in this Country, thereby making the laws just enumerated by me as the applicable laws.

This however is not the end of the appeal herein. This is because of the settled position of the law that a court will not turn its back against a party in litigation merely because he has proceeded to seek for determination of an issue or matter under a wrong law. The Court will decree in favour of such a litigant relief under the relevant and appropriate law if he/she is able to prove or establish his or her right to the relief he or she is seeking.

I call in aid the case of MIKE OMHENKE OBOMHENSE v. RICHARD ERHAHON (1993) 7 NWLR (PART 303) 22 AT 40 F-G where KARIBI-WHYTE, JSC relying on the earlier decision of Supreme Court in FALOBI v. FALOBI said:

"I agree that the principle is now well established that where a relief or remedy claimed under a wrong law is supported by facts establishing the remedy, the claim will not be denied merely because of the wrong law relied upon. See FALOBI v. FALOBI (1976) NMLR 169. This principle is founded on justice and common sense. But in order to benefit from the principle the facts relied upon must support the correct law to be applied. This is the critical issue in the application before us."

Sections 6 and 19 of the Oil Pipeline Act Cap 07 Laws of the Federation 2004 provide as follows:

"6. Notice before entry, damage, compensation, etc.

(1) Except with the previous consent of the owner or occupier, no person shall under the authority of section 5 of this Act enter any building or upon any enclosed court or garden attached to any building, without previously having given the owner of occupier at least fourteen days' notice of his intention to do so, nor enter upon any cultivated land without having given such notice to the owners or occupiers thereof or having affixed such notice in some prominent position upon such land.

(2) No person shall under the authority of section 5 of this Act enter any of the lands described in section 15 of this Act except with the prior assent of the owners or occupiers or persons in charge of such lands.

(3) The holder of a permit to survey acting under the authority of section 5 of this Act shall take all reasonable steps to avoid unnecessary damage to any land entered upon and any buildings, crops or profitable trees thereon, and shall make compensation to the owners or occupiers for any damage done under such authority and not made good.

(4) In the event of dispute as to the amount of compensation to be paid or as to whether or to whom any compensation shall be paid, the provisions of Part IV of this Act shall apply.

Court having jurisdiction as to compensation

If there be any dispute as to whether any compensation is payable under any provision of this Act or if so as to the amount thereof, or as to the persons to whom such compensation should be paid, such dispute shall be determined by a magistrate exercising civil jurisdiction in the area concerned if such magistrate has in respect of any other civil matter monetary jurisdiction of at least as much as the amount of compensation claimed, and if there be no such magistrate, by the High Court exercising jurisdiction in the area concerned and, notwithstanding the provisions of any other Act or law, in respect of the decision of a magistrate in accordance with this section there shall be an appeal to the High Court of the State and in respect of a decision of the High Court of the State under this section, whether original or appellate, there shall be an appeal to the Court of Appeal.

Provided that nothing in this Act shall be deemed to confer power upon a magistrate to exercise jurisdiction in a matter raising any issue as to the title to land or as to the title to any interest in land.

There is no doubt that before the coming into operation of Decree No. 60 of 1991 on 26th day of August 1993, the applicable Law to the type of action brought by the Respondents was section 19 of the Oil Pipeline Act.

By the time the Respondents approached the High Court of Imo State in the year 2000 to vindicate their rights to additional or further compensation from the Appellant the applicable Laws are the provisions Section 251(1)(n) of the Constitution of the Federal Republic of Nigeria 1999 and Section 7(1) (n) (3) (5) and 8(1) of the Federal High court Act Cap. F12 Law of the Federation of Nigeria 2004. The aforesaid Section of the Constitution and the Act are as follows:

"251(1) Notwithstanding anything of the contrary contained in this Constitution and in addition to such other jurisdiction as may be conferred upon it by an Act of the National Assembly, the Federal High Court shall have and exercise jurisdiction to the exclusion of any other Court in civil cases and matters-

(a)

(b)

(c)

(d)

(e)

(f)

(g)

(h)

(i)

(j)

(k)

(l)

(m)

(n) mines and minerals (including oil fields, oil mining, geological surveys and natural gas)."

Section 7 of the Federal High Court Act Supra provides.

"7(1) the court shall to the exclusion of any other court have original jurisdiction to try civil causes and matters-

(a)

(b)

(c)

(d)

(e)

(f)

(g)

(h)

(i)

(j)

(k)

(l)

(m)

(n) mines and minerals (including oil fields, oil mining, geological surveys and natural gas);

7(3) Where jurisdiction is conferred upon the Court under subsections 1, 2, and (3) of this Section, such jurisdiction shall be construed to include jurisdiction to hear and determine all issues relating to, arising from or ancillary to such subject matter."

7(5) Notwithstanding anything to the contrary contained in any other enactment or rule of Law, any power conferred on a State High Court or any other Court of similar jurisdiction to hear and determine any civil matter or proceedings shall not extend to any matter in respect of which jurisdiction is conferred on the Court under the provision of this section."

Section 8(1) of the Federal High Court Act further provides:

"In so far as jurisdiction is conferred upon the Court in respect of the causes or matters mentioned in the foregoing provisions of this part of this Act, the High Court or other Court of a State or Federal Capital Territory Abuja shall, to the extent that jurisdiction is so conferred upon the Court, cease to have jurisdiction in relation to such causes or matters."

The Learned Counsel to the Respondents had contended that since the words "arising from, "connected with" and pertaining to" activities of oil companies contained in Section 230(1) (0) of Decree 107 of 1993 and Decree No. 60 of 1991 were omitted from Section 251(1) (n) of the 1999 Constitution any inclusion of such words or phrases as "arising from" "connected with" "and pertaining to" contained in the Federal High Court Act is ultra vires the Legislative powers of the National Assembly. In other words Section 7(3) and (5) ought to be struck down by this Court for being inconsistent, according to the Respondents, with Section 1(3) of the Constitution of the Federal Republic of Nigeria 1999 as amended.

It has long been settled that the provisions of Constitution or of statute must be construed literally by giving the words in such Constitution or statute their ordinary grammatical meanings. Adjunct to this is that in ascertaining the real or true meaning or import of the provisions being construed or interpreted, the provisions of the Constitution or the statute must be construed as a whole. See the case of JOLLY JEVORU NYAME 1193 v. F.R.N. (2010) 7 NWLR (PART 1193) 344 at 399 C-H per ADEKEYE, JSC who held:

"In the interpretation of the provision of a statute or the Constitution where the language used is plain and unambiguous effect must of necessity be given to its plain and ordinary meaning. It is that clear and unambiguous language that best conveys the intention of the lawmaker. The lawmaker must be taken to have intended the meaning expressed in such clear and unambiguous language and the Court will not be at liberty to go outside the very provision in an attempt to ascertain the intendment and purpose of the provision. The obvious duty of the Court in such a situation therefore is not the determination of what the lawmaker meant, but the meaning of the plain language used which best expresses his intention. Sections 257(1) and (2) of the 1999 Constitution and Section (4) of the Penal Code are both written in ordinary plain language which according to the literal approach best represent the intention of the lawmakers. Furthermore, it is the general principle of law governing the interpretation of our Constitution that it should be given an interpretation which would serve the interest of the Constitution and carry out its object and purpose. Its relevant provisions must be read together and not disjointly and where the words of any section are clear and unambiguous, they must be given their ordinary meaning unless this would lead to absurdity or be in conflict with other provisions of the Constitution. Effect should be given to every word. A-G, Bendel State v. A-G of the Federation & Ors. (1981) 20 SC Pg. 1; (1982) 3 NCLR 1; Tinubu v. I.M.B. Securities Plc (2001) 45 WRN Pg. 1; (2001) 16 NWLR (Pt. 40) 670; Olafisoye v. F.R.N. (2004) 4 NWLR (Pt. 864) Pg. 580; A-G Ondo State v. A-G Federation (2002) 9 NWLR (Pt. 772) Pg. 228; Awuse v. Odili (2005) 16 NWLR (Pt. 925) Pg. 416 Egbue v. Araka (1996) 2 NWLR (Pt. 433) 688 at 702; Aqua Ltd. v. Ondo State Sports Council (1988) 4 NWLR (Pt. 91) Pg. 633; Ararume v. I.N.E.C. (2007) 9 NWLR (Pt. 1038) Pg. 127."

I have solemnly and critically examined the provisions of the relevant laws as hereinbefore highlighted including Section 7(1) (p) of Decree 60 of 1991 read along with S. 230(1) (0) of Decree No. 107 of 1993 considered by the Lower Court and I am of the calm view that the Learned trial Judge fell into serious error in assuming jurisdiction to entertain the claims of the Respondents.

The jurisdiction of the State High Court has been expressly excluded or ousted in any matter arising from, connected with or pertaining to mines, minerals including Oil Fields, mining, geological surveys and Natural Gas, listed in Section 251(1) (n) of the 1999 Constitution as amended.

The Respondents stated it clearly that they were claiming additional compensation because what the Appellant paid them for the acquisition of the land for exploitation and or exploration for mineral oil was

"... not compensation or fair and adequate compensation for the loss of use of the said land within the sprit and intendment of the Oil Pipelines enactment."

Though the words "arising from" "connected with" "and pertaining to" are not found in Section 251(1)(n) of the 1999 Constitution as amended the word "Notwithstanding" in the opening of Section 251(1) of the 1999 Constitution read along with the provisions of Sections 7(1) (3) (5) and 8 of the Federal High Court Act constitute enough warning signal to all stakeholders in administration of Justice that the State High Court no longer has jurisdiction in all matters listed in Section 251(1) (a) - (s) of the 1999 Constitution. The jurisdiction to hear and determine all issues relating thereto, arising from or ancillary to such subject matter of Section 251(1) have been exclusively bestowed on the Federal High Court.

See: NIGERIAN NATIONAL PETROLEUM CORPORATION (NNPC) & ANOR v. CHIEF STEPHEN ORHIOWASELE & ORS. (2013) NWLR (PART 1371) 211 at 224 F-H to 226 A-C where RHODES-VIVOUR JSC had this to say:-

Legislations relevant for consideration of this issue on jurisdiction are:

1. Constitution of the Federal Republic of Nigeria 1979, Section 236(1).

2. Constitution (Suspension and Modification) Decree No. 107 of 1993, Section 230(1)(o).

3. Petroleum Act, 1960 and the Oil Pipeline Act, 1956.

The principles which guide a Court in determining if it has jurisdiction are:

(a) that the subject matter of the case is within its jurisdiction;

(b) that there is no feature in the case which prevents the Court from exercising its jurisdiction; and

(c) that the case comes before the Court initiated by due process of law and upon fulfillment of any condition precedent to the exercise of jurisdiction. See Madukolu v. Nkemdilim (1962) 2 SCNLR p. 341."

The issue in this matter on jurisdiction is whether the facts of this case fall within matters connected with or pertaining to mines and minerals, including Oil Fields, Oil mining, geological surveys and natural gas. This falls within (a) and (b) above. If so found then, does the State High Court have jurisdiction to hear claims involving Oil spillage.

It becomes clear that a Court will have the necessary competence to hear and determine a matter before it if the subject matter is within its jurisdiction and there is no feature in the case which prevents the Court from exercising its jurisdiction. Section 236(1) of the 1979 Constitution vested in State High Courts unlimited jurisdiction to hear and determine about eighteen major items numbered (a) to (s) including the respondents claims in this action. But in 1993 the Constitution (Suspension and Modification) Decree No. 107 of 1993 with commencement date of 17/11/93 came into force. Section 230(1) of the Decree restored the jurisdiction of the Federal High Court pertaining to all the eighteen items, including the respondents' claims in this action.

Section 230(1) (o) of Decree No. 107 of the Constitution (Suspension and Modification) Decree No. 107 of 1993 provides as follows:

"Notwithstanding anything to the contrary contained in this Constitution and in addition to such other jurisdiction as may be conferred upon it by an Act of the National Assembly or a Decree, the Federal High Court shall have and exercise jurisdiction to the exclusion of any other Court in civil cases and matters arising from (o) mines and mineral (including Oil Fields mining, geological surveys and natural gas)".

Now do the facts in this case fall within (o) above. That is to say within matters connected with or pertaining to mines and minerals, including Oil Fields, Oil mining geological surveys and natural gas.

The construction, operation and maintenances of an Oil Pipeline by a holder of Oil prospecting licence is an act pertaining to mining operations. It is clear from the pleadings that the spillage and pollution occurred due to the negligence of the appellants handing their Oil wells. Since the spillage occurred it can be explained as having arisen from or connected with or pertaining to mines and minerals including Oil Fields and mining. See The Petroleum Act 1960, Oil Pipeline, Act 1956; Shell Petroleum Development Co. Nig. Ltd. v. Isaiah (2001) 11 NWLR (Pt. 723) p. 168.

The facts of this case fall comfortably within Section 230(1)(o) of the 1979 Constitution as amended by Decree No. 107 of 1993.

"Notwithstanding" in Section 230(1) of the 1979 Constitution means that no provision in the Constitution itself or any statue or legislation shall be allowed to prevail over the provisions of Section(230)(1) supra. Notwithstanding is thus a term of exclusion".

In his own contribution in the said case ONNOGHEN, JSC also hit the nail on the head on page 229 B-H when the said:

"It is settled law that the jurisdiction of a Court to hear and determine any matter before it is determined by the applicable law in force at the time of the institution of the action which in this case was the 8th day of September, 1993. It is clear that as at that date, the law applicable is the provisions of the Constitution (Suspension and Modification) Decree No. 107 of 1993 which came into force sometime in August, 1993. Section 230(1)(o) of the said Decree 107 of 1993 confers exclusive jurisdiction on the Federal High Court in respect of matters relating to mines and minerals, including Oil Fields, Oil mining, geological survey and natural gas.

In the case of Shell Petroleum Development Co. (Nig.) Ltd. v. Isaiah (2001) 11 NWLR (Pt. 723) 168 at 179 paras. C-E, this Court held thus:

"It is clear from the pleadings that the spillage and pollution occurred when the appellant was trying to repair the indented pipeline by cutting off the said section and installing a new section. I think it cannot be disputed if I say that installation of pipelines, producing, treating and transmitting of Crude Oil to the storage tanks is part of petroleum mining operations.

Therefore if an accident happens during the transmission of petroleum to the storage tanks it can be explained as having arisen from or connected with or pertaining to mines, and minerals, including Oil Fields, and Oil mining. I therefore agree that the subject matter of the respondents' claim falls within the exclusive jurisdiction of the Federal High Court as is provided under Section 230(1) (a) of the Constitution (Suspension and Modification) Decree No. 107".

Having held that the trial Court was without jurisdiction to entertain the action it follows that issue (a) which deals with the question as to whether the action was statute barred cannot be decided by this Court in the instant proceeding as the same is to be looked into by the appropriate Court with requisite jurisdiction to hear and determine the action, that is, the Federal High Court."

Contrary to the submission of Learned Counsel to the Respondents that the National Assembly has no Legislative Powers to Legislate the provisions of Section 7(1)(n) 7(3) and 7(5) into the Federal High Court, it is my view that the provisions of Section 7 of the Federal High Court Act are intra vires the legislative powers of the National Assembly.

More importantly the Respondents were not saying that their land was entered upon without their consent or illegally. They are not seeking for any title or trespass to their Land. Even if the action is founded in tort, the Imo State High Court would still lack the jurisdiction to entertain the matter because the Respondents grievances were tied to exploitation/exploration of Oil mining. In other words Respondents claims are intertwined with mines and minerals and activities on Oil Field by the Appellant. They specifically stated that they were claiming compensation within the intendment of oil Pipe line Act.

The Lower Court cannot take umbrage under the erroneous perception that:

"... the claim does not arise, from nor is it connected with or pertain to that purpose but it is a claim purely for compensation to the Plaintiffs for the less of Land in question."

It amounts to rewriting of the Law particularly Section 7 of the Federal High Court Act thereby brushing aside the clear intendment of the relevant Laws and the Constitution. The function of the Court is to state the intention of the law Makers and no more.

See: THE HON. JUSTICE E. O. ARAKA v. THE HON. JUSTICE DON EGBUE (2003) 17 NWLR (PART 848) 1 at 21 B-G where NIKE TOBI JSC.

The amendments to Section 7 of the Federal High Court Act and Section 251(1) (n) of the 1999 Constitution of the Federal Republic of Nigeria, Constitute intervening events divesting and or ousting the jurisdiction of the State High Court to entertain any matter having to do with mines and minerals including Oil Fields, Oil mining, geological survey's and natural gas and by extension the State High Courts have no jurisdiction to entertain any cause or matter relating to, arising from, connected to or ancillary to subject matter of Section 251(1)(n) of the 1999 Constitution as amended.

See: THE GOVERNOR OF KWARA STATE & ORS. v. JEROME OLADELE DADA (2011) 7 SCM 119 at 129 D-I per FABIYI, JSC who held thus:

"Let me state it briefly that jurisdiction of a court in the process of adjudication is very fundamental. It should be determined at the earliest opportunity. If a court has no jurisdiction to hear and determine a case, its proceedings remain a nullity ab initio no matter how well conducted and decided. A defect in competence is not only intrinsic to the entire process of adjudication, See; Gabriel Madukolu v. Johnson Nkemdilim (1962) All NLR 587 at 595; Utih & Ors. v. Onoyivwe & ORS (1991) 1 NWLR (Pt.84) 508.

As objection was taken to the jurisdiction of the trial Court to try the action, it has an abiding duty at that point in time to inquire whether in fact its jurisdiction has been ousted. It has to be guided by the principle that every superior court of record guards its jurisdiction jealously. In the interpretation of a statute ousting jurisdiction as in that matter, the court is not imbued with power to inquire as to why its jurisdiction has been ousted. It can only inquire into whether or not, on the prevailing facts and circumstances, the jurisdiction had been ousted or restricted. It is the duty of the court to construe the provisions of a statute ousting jurisdiction strictly. But once it is clear that an ousted of jurisdiction was intended and from the facts of the case, it comes squarely within the four corners of the statute, the court has no alternative but to hold that its jurisdiction has been ousted. It does not behove the Court to attempt to dance round it and wring a false meaning out of the language of the statute."

See also ISAAC OBIUWEVBI v CBN (2011) 7 NWLR (PART 1247) 465 at 495 C-H to 496 A-D per RHODES-VIVOUR, JSC.

In the result I hold that the trial Court has no jurisdiction to entertain and adjudicate on the Respondents suit. The Respondents action ought to have been terminated and struck out by the Learned trial Judge. The sole issue for determination in this appeal is hereby resolved in favour of the Appellant against the Respondents. The Appellant's appeal succeeds.

The Ruling of the Imo State High Court contained in the Ruling of HON. JUSTICE U. D. OGWURUIKE delivered on the 22nd July, 2003, is hereby set aside. The Respondents' action/Suit No. HOG/29/2000 is hereby struck out. Parties are to bear their own costs.

**RAPHAEL CHIKWE AGBO, J.C.A**.:

I have been privileged to read in draft this most incisive lead judgment written by my learned brother Ige, JCA and I completely agree with his reasoning and conclusion. I too allow this appeal and abide by the consequential orders contained in the lead judgment.

**FREDERICK O. OHO, J.C.A**.:

I have had the privilege of reading in draft the judgment of my learned brother PETER O. IGE, JCA just delivered and agree with his reasoning and conclusions therein in deciding that the Appeal succeeds. I have nothing more to add to this judgment. Consequently, the Ruling of the Imo State High Court of the 22nd day of July, 2003 by U. D. OGWURUIKE J. in suit no. HOG/29/2000 is hereby set aside.