

IN THE NIGER STATE HIGH COURT OF JUSTICE OF NIGERIA
IN THE MINNA JUDICIAL DIVISION
HOLDEN AT MINNA

SUIT NO.....

IN THE MATTER OF AN APPLICATION BY GARBA GALADIMA PAIDA FOR AN ORDER FOR THE ENFORCEMENT OF HIS FUNDAMENTAL HUMAN RIGHTS TO FAIR HEARING AND OWN IMMOVABLE PROPERTY AS ENTRENCHED IN SECTIONS 36, 43, 44(1)A-B AND 46 OF THE 1999 CONSTITUTION OF THE FEDERAL REPUBLIC OF NIGERIA (AS AMENDED) THE UNIVERSAL DECLARATION OF HUMAN RIGHTS (UDHR) 1948, AND AFRICAN CHARTER ON HUMAN RIGHT AND PEOPLES' RIGHTS (RATIFICATION AND ENFORCEMENT) ACT CAP A9 L.F.N. 2004.

BETWEEN

GARBA GALADIMA PAIDAAPPLICANT

(Suing for himself and on behalf of the family of Late Galadima Paidia)

AND

1. GOVERNOR OF NIGER STATE

2.HON. ATTORNEY GENERAL AND COMMISSIONER OF JUSTICE
NIGER STATE

3. HON. COMMISSIONER OF LAND & HOUSING, NIGER STATE

4.NATIONAL HYDRO ELECTRIC POWER PRODUCING AREA
DEVELOPMENT COMMISSIONRESPONDENTS

APPLICANT'S AFFIDAVIT IN SUPPORT OF THE APPLICATION

I, GARBA GALADIMA PAIDA Adult, Male, Farmer of Shango Area, Chanchaga Local Government Area of Minna, Niger State do solemnly make Oath and state as follows:

1. That I am the deponent herein and the Applicant in this suit by the virtue of which I am conversant with the fact of this case.
2. That I am the head of Family of Late Galadima Paida.
3. That we hold the deemed Statutory Rights of Occupancy over the large piece of land re-allocated to the Niger State Trust Fund now defunct by the 1st Respondent via Certificate of Occupancy Number NG/MN/611 measuring 0.738 hectares and situate at Tunga, Chanchaga Local Government Area, Niger State. The sketch map of Certificate of Occupancy Number NG/MN/611 dated Oct., 2004 and prepared by the Niger State Survey Dept. is hereby attached and marked as Exhibit GGP1.
4. That 1st Respondent compulsorily acquired our family land without prior Notice to us.
5. That no prior enumeration and assessment of payable and adequate compensation was carried-out.
6. That our land is currently in possession of the 4th Respondent in this suit.
7. That the current market value of our farmland measuring 0.738 hectares Seventy-Six Million Naira (N76,000,000.00k). The Valuation Report on landed property of Galadima Paida Family along Minna-Paiko road (Abdulsalami Abubakar Way), Tunga, Chanchaga Local Government Area, Niger State. by Mashood Mustapha of Mustapha & Company, Estate Surveyors & and Valuers is hereby attached and marked as Exhibit GGP2.
8. That flowing from above, page 3 of Exhibit GGP 2 being valuation report reads: "We are of the well-considered opinion that the Market Value of the land, herein described as at the stated date of valuation, was in the region of **SEVENTY-SIX MILLION NAIRA (N76,000,000.00)**".
9. That our solicitor on our instruction wrote a letter dated 12th October, 2023 to the 1st Respondent and copied the 2nd, 3rd and 4th respondents demanding

vacant possession of our family land. The letters dated 12th October, 2023 to the 1st, 2nd, 3rd, and 4th Respondents are hereby attached and marked as Exhibit GGP3, GGP4, GGP5, and GGP6 respectively.

10. That the Respondents are yet to comply with our demand till date.

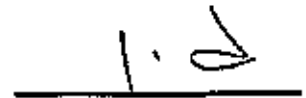
11. That I depose to this Affidavit conscientiously and in good faith believing the facts deposed to to be true and correct, and, in accordance with the oaths Act.



Deponent

ILLITERATE JURAT

The content of this affidavit was read and interpreted to the deponent from English to Hausa and vice versa by me Ibrahim Idrisu and the Deponent having understood same before affixing his signature.



INTERPRETER

SWORN TO AT THE HIGH COURT REGISTRY, MINNA

This.....25th.....day of.....MARCO.....2024.

BEFORE ME
HIGH COURT OF JUSTICE
COMMISSIONER FOR OATH
CENTRAL REGISTRY
ANNEKA HAMZAY
SIGNATURE OF OATH COMMISSIONER
NIGER STATE OF NIGERIA.
COMMISSIONER FOR OATHS



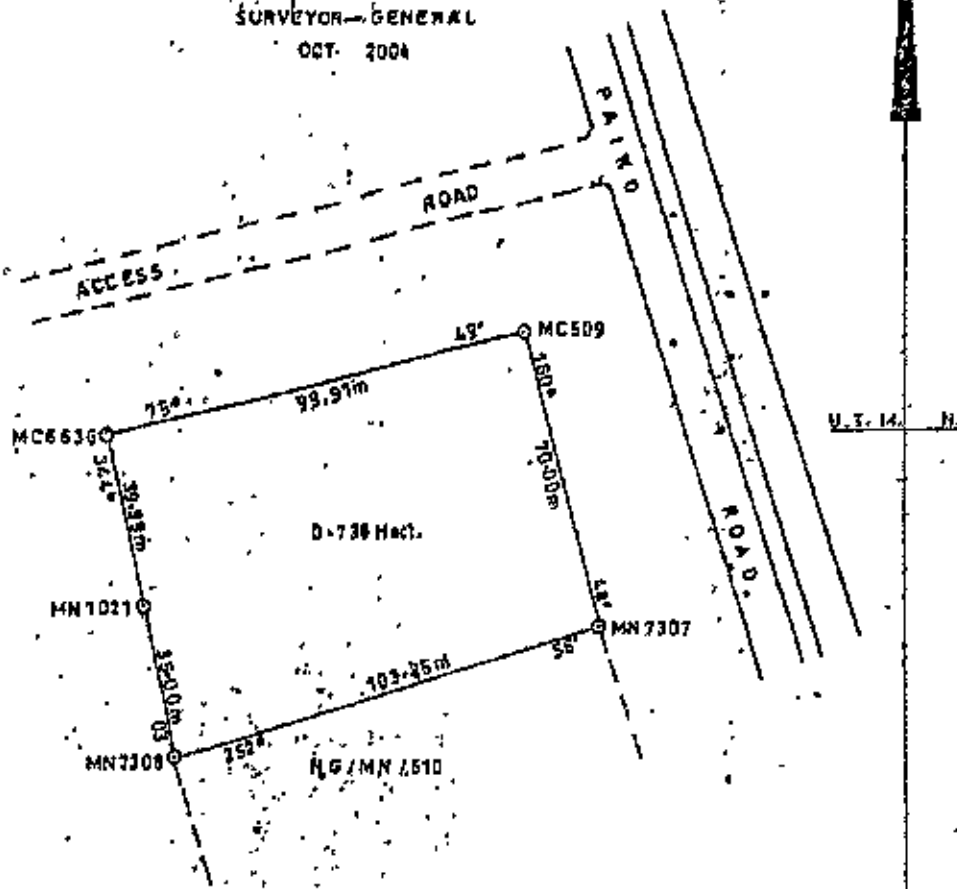
NIGER STATE TRUST FUND

MINNA

MINNA L.G. AREA

EXHIBIT GGP1

Asst.
SURVEYOR-GENERAL
OCT. 2004



U.M. Co-ordinates of PMC6636

1. 1,060,507.37m

Origin: - UTM Zone 32 (MNC501)

2. 232,765.54m

emptied from Registered data by Danladi Nasir on Feb. 2004

Drawn by *SSM Akuma*

Checked by *[Signature]*

Assessed by *[Signature]*

All bearings and distances shown on this plan

have been computed from Registered Co ordinates

Computation No NG/MN/610

Plan No NG/MN/611

Minna Metric Sheets 33&34

SCALE: 1:1500

Plan prepared by the Niger State Survey Dept.

VALUATION REPORT
ON
THE LANDED PROPERTY
OF
GALADIMA PAIDA FAMILY
ALONG
MINNA - PAIKO ROAD,
MINNA.
NIGER STATE.



**MUSTAPHA &
COMPANY**

RC 926695



• ESTATE SURVEYORS • VALUERS • INVESTMENT APPRAISERS

MINNA OFFICE

4.K 54 Umaru Audi Road

(Old Airport Road)

P.O. Box 3361

Minna, Niger State.

• 08033972582, 08186216400

e-mail: mustaphacompany@yahoo.com

ABUJA OFFICE

Suite 317, Lozumba Complex,

UTC Area 7, P.O Box 8435

Garki - Abuja ☎: (09) 6705277



MUSTAPHA & COMPANY

+CO.

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VALUATION REPORT ON THE LANDED PROPERTY OF GALADIMA PAIDA ALONG MINNA – PAIKO ROAD, MINNA, NIGER STATE.

BRIEF:

We, MESSRS. MUSTAPHA AND COMPANY, have been duly instructed by MALLAM GARBA GALADIMA PAIDA on behalf of Galadima family to conduct valuation survey of the family's landed property. The property lies and situates along Minna – Paiko Road, Minna, Niger State.

PURPOSE OF VALUATION:

The valuation was carried out with the objective of ascertaining the Market Value of the property. Market Value is defined as the opinion of the best price at which the sale of an interest in a property would have been completed, unconditionally, for monetary consideration on the date of valuation.

DATE OF VALUATION:

For the purpose of this valuation, the property was inspected on the 29th day of November, 2023. This date has been adopted as the effective date of this valuation.

LOCATION OF THE PROPERTY:

The property locates along Minna – Paiko Road a dual carriage way. Generally close to the property are the Niger State Government new Secretariat, and Mubashar Filling Station.

DESCRIPTION OF THE PROPERTY:

The property, subject of this valuation, is a parcel of land of about 0.738 hectare. The land is rectangular in shape and level in terrain. Although there are developments on the parcel of land, our brief is to ignore the development and value the underlying land.



MEMBER OF THE NIGERIAN INSTITUTION OF ESTATE SURVEYORS AND VALUERS

TENURE:

The parcel of land is owned by the Galadima Paida Family by virtue of being the first settlers on the land. However, the Niger State Government took over the land without compensation. The state went on to create statutory Right of Occupancy over the land and allocated it to Niger State Trust Fund with Certificate of Occupancy No.NG/MN/611. It is presently occupied by the Hydro-Electric Power Producing Area Development Commission. (HYPPADEC).

BASIC AND METHOD OF VALUATION:

The value of the property is based on fair open market concept. This simply means the most probable conservative price for which the property might reasonably be expected to exchange for under current market conditions.

Comparison Method of Valuation has been adopted in carrying out valuation of the property. This involves making valuation from comparable properties within the neighbourhood.

FACTS AND ASSUMPTIONS:

In our valuation, we have made the following general assumptions in addition to other specific assumptions made elsewhere in the report:

- i. We are not aware of any governmental or town planning regulations which could adversely affect the value of the property.
- ii. All subsisting liens and encumbrances, if any, have been disregarded and the property valued as though free and clear under responsible ownership and management.
- iii. All information and comments concerning location, neighbourhood trends and other our estimates and opinions formed after an examination and study of the property.

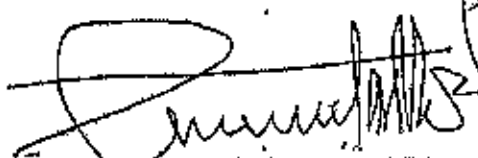
OPINION OF VALUE:

We are of the well considered opinion that the Market Value of land, herein described as at the stated date of valuation, was in region of SEVENTY-SIX MILLION NAIRA (N76,000,000.00).

No allowance is made in our valuation for the expenses of realizing the estimated value or for taxation which may arise in the event of a disposal.

CERTIFICATION:

We affirm that this Valuation Report has been prepared in accordance with the standard set by the Nigerian Institution of Estate Surveyors and Valuers of which the undersigned is a member, and in attestation of which correctness our stamp and seal is here to set.



MASHOOD MUSTAPHA ANIVS; RSV; AMNIM
FOR: MUSTAPHA ANI COMPANY

EXHBB17 GGP3

SOLICITORS IN CHAMBERS:

ISHAKA I. JIJIMBU
ABDULMALIK MAKAMA
MOHAMMED IBRAHIM
IDRIS IBRAHIM



SIR JIJIMBU & CO.

Legal Practitioners, Notary Public Arbitrators & Legal Consultants.
Abdullahi Kasim House Opposite Napa Office/Farm Centre, Tunga, Minna,
Niger State, Nigeria.
08036801234, 08088238080, 08037505267
E-mail: guidancechambers@gmail.com

The Executive Governor of Niger State
Government House,
Minna, Niger State

Your Excellency,



**LETTER OF DEMAND/PRE-ACTION NOTICE FOR THE RECOVERY OF
LAND COVERED BY COFO NUMBERS NG/MN/610 AND NG/MN/611 AND
GRANT TO NIGER STATE TRUST FUND SITUATE AT ALONG A.A WAY
SPACE OF CERTIFICATE OF OCCUPANCY NUMBER NG/MN/611 IS
CURRENTLY BEING USED BY HYPPADEC AS THEIR NATIONAL
HEADQUARTER WHILE THAT OF CERTIFICATE OF OCCUPANCY
NUMBER NG/MN/610 REMAINS UNDEVELOPED, TUNGA, CHANCHAGA
LOCAL GOVERNMENT AREA, MINNA, NIGER STATE**

The above subject matter refers:

We are solicitors to Garba Galadima Paida (herein referred to as our client) the Family Head of Late Galadima Paida, Shango Area, Minna, Niger State.

We have the authority and instruction of our client to write you to recover the lands covered by Certificate of Occupancy Number NG/MN/611 and NG/MN/610 situate at Abdulsalam Abubakar Way Tunga, Chanchaga LGA, Minna, Niger State for **LACK OF COMPENSATION**.

It is our client brief that they are the natives and first settlers (owners) of the vast expanse of land, Niger State Government **FORCEFULLY ACQUIRED** and granted same to Niger State Trust Fund vide Certificate of Occupancy Number NG/MN/610 and NG/MN/611. Space for the Certificate of Occupancy Number NG/MN/611 is currently facing occupied by the National Headquarter of Hydro Power Producing Areas Development Commission currently.

Consequently, we demand the vacant possession of the lands as described above the Certificate of Occupancy No. NG/MN/611 is measuring 99.91 metres by 70.6 metres by 103.86 metres by 39.99 metres (0.738 hectares) within 30 (thirty) days from the date of receipt of this letter.

The Certificate of Occupancy Number NG/MN/610 is measuring 103.86 metres by 67.85 metres by 62.59 metres by 50.10 metres by 45.80 metres by 35.0 metres by 39.99 metres by 39.99 metres (0.967 hectares).

Take notice that if Niger State Government fail to give up the vacant possession of the said lands as described above; we shall proceed to institute legal action to recover same in a court of law.

While we anticipate your prompt response, please, accept the assurances of our esteemed regards.



Yours faithfully,

I.J Ibrahim Esq
SIR JIJIMBU & CO
08036981234

CC:

1. The Honorable Commissioner, Niger State Ministry of Land and Housing Minna, Niger State.
2. The Attorney General & Commissioner for Justice Niger State, Ministry of Justice, Minna, Niger State.
3. The Managing Director, Niger State Trust Fund Minna, Niger State, Nigeria.
4. The Managing Director, National Hydro Electric Power Producing Area Development Commission, Abdulsalm Abubakar Way, Senator Dahiru Awaisu Kuta Complex, Minna, Niger State.

Sirs,

Above is for your information, notice and necessary action, please.

Yours faithfully,

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SIR JIJIMBU & CO
08036981234

SOLICITORS IN CHAMBERS:

ISHAKA I. JIJIMBU
ABDULMALIK MAKAMA
MOHAMMED IBRAHIM
IDRIS IBRAHIM



SIR JIJIMBU & CO.

Legal Practitioners, Notary Public Arbitrators & Legal Consultants.
Abdullahi Kneim House Opposite Nepa Office/Farm Centre, Tunga, Minna,
Niger State, Nigeria.
08036981234, 08088238080, 08037505267
E-mail: guidancechambers@gmail.com

12th October, 2023

The Executive Governor of Niger State
Government House,
Minna, Niger State

Your Excellency,

cf 21/11/2023

LETTER OF DEMAND/PRE-ACTION NOTICE FOR THE RECOVERY OF
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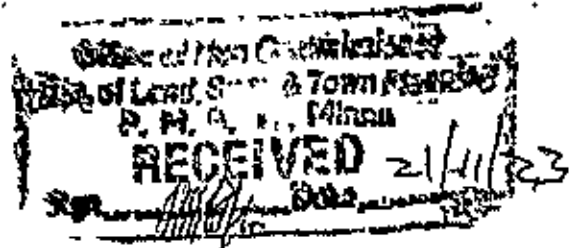
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Legal Practitioners, Notary Public Arbitrators & Legal Consultants.
Abdullahi Keshi House Opposite Neta Office/Farm Centre, Tunga, Minna,
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08036981234, 08089238980, 08037503267
E-mail: guidancechambers@gmail.com

12th October, 2023

The Executive Governor of Niger State
Government House,
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It is our client brief that they are the natives and first settlers (owners) of the vast expanse of land, Niger State Government FORCEFULLY ACQUIRED and granted same to Niger State Trust Fund vide Certificate of Occupancy Number NG/MN/610 and NG/MN/611. Space for the Certificate of Occupancy Number NG/MN/611 is currently facing occupied by the National Headquarter of Hydro Power Producing Areas Development Commission currently.

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L.J Ibrahim Esq
SIR JIJIMBU & CO
08036981234

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3. The Managing Director, Niger State Trust Fund Minna, Niger State, Nigeria.
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L.J Ibrahim Esq
SIR JIJIMBU & CO
08036981234

SRS IN CHAMBERS:

A.I. JIJIMBU
MALIK MAKAMA
AMMED IBRAHIM
IS IBRAHIM



SIR JIJIMBU & CO.

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SUIT NO.....

BETWEEN

(Suing for himself and on behalf of the family of Late Galadima Paida)

1. GOVERNOR OF NIGER STATE

3. HON. COMMISSIONER OF LAND & HOUSING, NIGER STATE

**STATEMENT MADE PURSUANT TO ORDER 2, RULE 3 OF THE
FUNDAMENTAL RIGHTS (ENFORCEMENT PROCEDURES) RULES
2009**

8

The Applicant is GARBA GALADIMA PAIDA, a Farmer and family head of Late GALADIMA PAIDA of Shango Area, Chanchaga Local Government Area of Minna, Niger State.

B. RELIEFS SOUGHT BY THE APPLICANT

- (1) A DECLARATION that under Sections 36, 43 and 44 of the Constitution of the Federal Republic of Nigeria 1999, as amended, Article 10 and 17 of the Universal Declaration of Human Rights (UDHR) 1948 and Article 7 and 14 of African Charter on Human and People's Right (Ratification and Enforcement) Act Cap 9, Laws of Federation of Nigeria 2004, the 1st Respondent lacks the power to take-over the possession and right over the Applicant's farm land without prior Notice of acquisition for overriding public purpose and payment of adequate compensation.
- (2) A DECLARATION that the divesting possession and right of the Applicant by the 1st Respondent over their farm land measuring 0.738 hectares and situate at Tunga, Chanchaga Local Government Area, Niger State compulsorily is illegal, invalid and null and void and of no effect whatsoever.
- (3) An order restraining the 1st, 2nd, 3rd, and 4th Respondents from further taking possession of the farmland or interfering with the Applicant's rights and interests therein.
- (4) ANY OTHER ORDER OR FURTHER ORDERS as the Honourable Court may deem fit and proper to make in the circumstance.

IN ALTERNATIVE

- (5) An ORDER directing the 1st to 3th Respondents, jointly and severally, to pay to the Applicant the sum Seventy-Six Million Naira (N76,000,000.00k) as adequate compensation for the compulsory acquisition of the Applicant farmland.
- (6) 5% (percent) monthly post-judgment interest from the date of judgment until judgment sum is fully liquidated.
- (7) ANY OTHER ORDER OR FURTHER ORDERS as the Honourable Court may deem fit and proper to make in the circumstance.

C. GROUND FOR SEEKING RELIEF

- (1) The Applicant by the virtue of section 36, 43 and 44 of the 1999 Constitution of Federal Republic of Nigeria (as Amended), Article 10 and 17 of the Universal Declaration of Human Rights (UDHR) 1948 as well as Article 7 and 14 of African Charter on Human and People's Right (Ratification and Enforcement) Act Cap 9, Laws of Federation of Nigeria 2004 is entitled to right to fair hearing and freedom to own and have possession of immovable property.
- (2) The Applicant's rights to fair hearing and own immovable property and Compensation in the event of compulsory acquisition of right and possession have been breached
- (3) The Applicant is suing in respect of forceful takeover of right and possession his family land measuring 0.738 hectares and situate at Tunga, Chanchaga Local Government Area, Niger State.
- (4) The 1st, 2nd, 3rd, and 4th Respondents forcefully took possession and right over the land without notifying the Applicant, thereby denying Applicant fair

hearing and free usage of Applicant's farm land without complying with the lawful procedure on acquisition.

- (5) The Applicant has right to enforce his fundamental human right when his rights have been breached, are being breached or likely to be breached.

DATED THIS 18th DAY OF March, 2024



I.J. Ibrahim Esq
Gimba Hassan Esq.
Applicant's Counsel,
Guidance Chambers,
Opposite AEDC Office, Tunga,
Minna Niger State
08036981234.

FOR SERVICE ON:

Lawal Abubakar ESQ.

Ag. Director, Rent Tribunal,

1st, 2nd and 3rd Respondents' Counsel.

Ministry of Justice, Minna, Niger State.

4th Respondent:

The National Hydro Electric Power, Producing Area Development Commission,
Abdulsalam Abubakar Way, Senator Dahiru Awaisu Kuta Complex, Minna, Niger
State.

IN THE NIGER STATE HIGH COURT OF JUSTICE OF NIGERIA
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GARBA GALADIMA PAIDAAPPLICANT

(Suing for himself and on behalf of the family of Late Galadima Paidia)

AND

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- 4.NATIONAL HYDRO ELECTRIC POWER PRODUCING AREA
DEVELOPMENT COMMISSIONRESPONDENTS

WRITTEN ADDRESS

1.0.0 INTRODUCTION

- 1.0.1 My Lord, this is a motion for enforcement of the fundamental Human right of the Applicant brought pursuant to Section 36,43, 44(a to b) and 46 of the 1999 Constitution (as amended), Order 2 Rule 2 of the Fundamental Enforcement

procedure rules 2009, Article 10 and 17 of the Universal Declaration of Human Rights (UDHR) 1948 and Article 7 and 14 of African Charter on Human and People's Right (Ratification and Enforcement) Act Cap 9, Laws of Federation of Nigeria 2004 and under the inherent jurisdiction of this Honourable court.

1.0.2 The origination motion is praying for an order of this Honorable Court as follows:

- (1) A DECLARATION that under Sections 36, 43 and 44 of the Constitution of the Federal Republic of Nigeria 1999, as amended, Article 10 and 17 of the Universal Declaration of Human Rights (UDHR) 1948 and Article 7 and 14 of African Charter on Human and People's Right (Ratification and Enforcement) Act Cap 9, Laws of Federation of Nigeria 2004, the 1st Respondent lacks the power to take-over the possession and right over the Applicant's farm land without prior Notice of acquisition for overriding public purpose and payment of adequate compensation.
- (2) A DECLARATION that the divesting possession and right of the Applicant by the 1st Respondent over their farm land measuring 0.738 hectares and situate at Tunga, Chanchaga Local Government Area, Niger State compulsorily is illegal, invalid and null and void and of no effect whatsoever.
- (3) An order restraining the 1st, 2nd, 3rd, and 4th Respondents from further taking possession of the farmland or interfering with the Applicant's rights and Interests therein.
- (4) ANY OTHER ORDER OR FURTHER ORDERS as the Honourable Court may deem fit and proper to make in the circumstance.

IN ALTERNATIVE

- (5) An ORDER directing the 1st to 3th Respondents, jointly and severally, to pay to the Applicant the sum of Seventy-Six Million Naira (N76,000,000.00k) as adequate compensation for the compulsory acquisition of the Applicant farmland.
- (6) 5% (percent) monthly post-judgment interest from the date of judgment until judgment sum is fully liquidated.
- (7) ANY OTHER ORDER OR FURTHER ORDERS as the Honourable Court may deem fit and proper to make in the circumstance.

1.0.3 My Lord, this application is supported by 11 paragraphs affidavit deposed to by the Applicant himself. We rely on all the averments in the said affidavit in support and urge this Honorable Court to grant all our prayers as prayed on the motion paper.

2.0.0 BRIEF STATEMENT OF FACTS:

2.0.1 My lord, the whole facts upon which the extant application is predicated are as set out in the applicant's affidavit which we adopt wholly.

3.0.0 ISSUES FOR DETERMINATION

3.0.1 The Applicant formulates the following issues for determination (the first and second issues are for the main relief while the last issue is for the alternative relief):

- (1) Having regard to Section 36(1) of the Constitution of the Federal Republic of Nigeria 1999 as amended, Article 10 of the Universal Declaration of Human Rights (UDHR) 1948 as well as Article 7 of African Charter on Human and People's Right (Ratification and Enforcement) Act Cap 9, Laws of Federation of Nigeria 2004 and Sections 28 and 44 of the Land Use Act 1978 whether the 1st Respondent breached the Applicant's right to fair hearing.
- (2) Having regard to the provisions of Sections 43 and 44(1)-(a), (b) of the Constitution of the Federal Republic of Nigeria 1999 as amended, Article 17 of the Universal Declaration of Human Rights (UDHR) 1948 as well as Article 14 of African Charter on Human and People's Right (Ratification and

Enforcement) Act Cap 9, Laws of Federation of Nigeria 2004 and section 28(4) of the Land Use Act 1978, can the 1st Respondent forcefully take-over possession of the Applicant's landed property (farmlands) without prior notice of acquisition for overriding public purpose and payment of adequate compensation.

- (3) Whether the Applicant is entitled to adequate compensation for the compulsory acquisition of the applicant's farmland?

4.0.0 ARGUMENT ON ISSUES FORMULATED

4.1.1 ISSUE NO.1

- (1) Having regard to Section 36(1) of the Constitution of the Federal Republic of Nigeria 1999 as amended, Article 10 of the Universal Declaration of Human Rights (UDHR) 1948 as well as Article 7 of African Charter on Human and People's Right (Ratification and Enforcement) Act Cap 9, Laws of Federation of Nigeria 2004 and Sections 28 and 44 of the Land Use Act 1978 whether the 1st Respondent breached the Applicant's right to fair hearing.

4.1.1 We answer the afore question in the affirmative.

4.1.2 We submit with respect that the applicant is entitled to be heard on the proposed compulsory acquisition of his deemed statutory right of occupancy. We respectfully urge this Honourable Court to so hold in the light of the Supreme Court case of **ORIANZI v. AG RIVERS STATE & ORS (2017) LPELR-41737(SC)** where the apex held thus:

The title holder is not only entitled to the notice of the proposed revocation with the public purpose for the revocation clearly spelt out therein, he is also entitled to be heard on the proposed revocation of his title. My firm view, on this, is that reading Sections 28 and 44 of the Land Use Act together with Section 36(1) of the Constitution, the Governor when it behoves him to revoke any Right of Occupancy in or over any landed property has a duty to act quasi-judicially and in transparent manner. Even if no label of judicially or quasi-judicially may be placed on the Governor to so act, his duty to act fairly can not be denied since he has a duty to give notice of the intended revocation wherein he must spell out the public purpose of the intended revocation to the title holder. See **HART v. MILITARY GOVERNOR, RIVERS STATE & ORS. (1976) 11 SC (Reprint) 109. (Underline mine for emphasis).**

See also the case of NIGERIA ENGINEERING WORKS LTD . v. DENAP LTD & ANOR (2001) LPELR-2002 (SC).

See also Article 7 of the African Charter. Article 7 of the Charter **relates directly to the Right to Fair Trial**. It stipulates that: 1. Every individual shall have the right to have his cause heard.

We humbly urge my Lord to so hold, and to resolve Issue No.1 in favour of the Applicant.

4.2.1 ISSUE NO.2

- (2) Having regard to the provisions of Sections 43 and 44(1)-(a), (b) of the Constitution of the Federal Republic of Nigeria 1999 as amended, Article 17 of the Universal Declaration of Human Rights (UDHR) 1948 as well as Article 14 of African Charter on Human and People's Right (Ratification and Enforcement) Act Cap 9, Laws of Federation of Nigeria 2004 and section 28(4) of the Land Use Act 1978, can the 1st Respondent forcefully take-over possession of the Applicant's landed property (farmlands) without prior notice of acquisition for overriding public purpose and payment of adequate compensation.

4.2.2 We humbly submit that Section 43 of the Constitution of Federal Republic of Nigeria, 1999 guarantees individual ownership of immovable property anywhere in Nigeria. For the purpose of emphasis, we humbly seek to reproduce the said section hereunder:

"Subject to the provisions of this constitution, every citizen of Nigeria shall have the right to acquire and own immovable property anywhere in Nigeria,"

See also Article 17 of the Universal Declaration of Human Rights

Article 17

Everyone has the right to own property alone as well as in association with others. No one shall be arbitrarily deprived of his property.

See also Article 14 of African Charter on Human and People's Right (Ratification and Enforcement) Act Cap 9, Laws of Federation of Nigeria 2004

Article 14

"The right to property shall be guaranteed. It may only be encroached upon in the interest of public need or in the general interest of the community and in accordance with the provisions of appropriate laws."

4.2.3 Furthermore, if the aforesaid right of ownership envisaged by the Constitution is to be forfeited vide acquisition by the Government or any other authority/institution, then it must be for over-riding public interest.

However notice must be given to the owners of such land, by the Governor, declaring same to be required for public purposes.

We humbly refer the Honourable Court to Section 29(4) Land Use Act 1978.

Section 29(4)

The Governor shall revoke a right of Occupancy in the event of the issue of a notice by or on behalf of the president if such notice declares such land to be required by the Government for public purposes."

Upon completion of the acquisition process, there must be prompt payment of compensation to the Owners of land.

We refer the Honourable Court to section 44(1)(a) & (b) of the Constitution of Federal Republic of Nigeria 1999 (As amended), which provides:

Section 44

"(1) No immovable property or any interest in an immovable property shall be taken possession of compulsorily and no right over or interest in any such property shall be acquired compulsorily in any part of Nigeria except in the manner and for the purposes prescribed by a law that, among other things-

(a) Requires the prompt payment of compensation therefore; and

(b) Gives to any person claiming such compensation a right of access for the determination of his interest in the property and amount of compensation to a court of law or tribunal or body having jurisdiction in that part of Nigeria."

4.2.4 In giving effect to the requirement of giving notice to Owners of land intended for acquisition, the Supreme Court minced no words when it underscored the position

of service of notice of revocation as a pre-requisite for a valid acquisition of private property by the Government.

In the case of: **ONONUJU v. AG ANAMBRA STATE** (2009)2 NWLR p. (1148) 182 @ p. 221, the Supreme Court held inter alia:

"A publication in the Gazette of a notice of Revocation without personal service of same on the person(s) concerned does not make the acquisition/revocation valid...

... In the instant case, the revocation of the rights of the Appellants in the land in question was invalid for reason of non-service of the statutorily required Notice of revocation/acquisition and consequently null and void ab initio. It follows therefore that any subsequent step taken by the 1st and 2nd Respondents in consequence of the revocation/acquisition such as grant of a portion of the respondent, for whatever purposes, whether public or private was clearly null and void as one cannot put something on nothing and expect it stand."(underlining mine for emphasis)

4.2.5 Furthermore, in the case of **NIGERIA ENGINEERING WORKS LTD . v. DENAP LTD & ANOR** (2001) LPELR-2002 (SC), the Supreme Court, in considering the failure of Intention to revoke the Right of Occupancy on the 1st Respondent, held as follows:

"The powers of the Governor to revoke any right of occupancy must be exercised in the overriding interest of the public and more importantly the holder of the right of occupancy being revoked must be notified in advance of the revocation. The notice to the holder must state reasons or reasons for the revocation and this will give the holder the opportunity to make any representation he or she wishes to make. Where the notice was not given or notice given was inadequate or not given in compliance with the provisions of the Act, the act of the exercise of revocation under section 28 of the Act will be null and void

...

(underlining mine for emphasis).

IN BARAYA V. ABDULLAHI (2017) LPELR-43371 (CA) the Court held that-

"Without valid notice of revocation, the original owner cannot be divested of his interest in the land. His interest still subsists."

See also ATOBATELE v. LEKKI CONCESSION COMPANY LTD & ANOR (2017) LPELR - 43041 (CA).

C.S.S. BOOKSHOPS LTD. v. R.T.M.C.R.S. & 3 ORS (2006) 11 NWLR (pt. 992) 530 at 578 paras D-E

4.2.6 And on the requirement of prompt payment of compensation during compulsory acquisition of land by Government, the Supreme Court in the case of ELF PETROLEUM v. UMARU & ORS. (2018) LPELR- 43600 (SC) held thus:

It is pertinent to state that this Court by its decision in the case of PROVOST LAGOS STATE COLLEGE OF EDUCATION & ORS v. KOLAWOLE EDUN & ORS.(2004) 6 NWLR (pt. 870) pg. 476 @ 509 decided that Government has the constitutional Right to compulsorily acquire property on payment of compensation by virtue of Section 40 of the 1999 Constitution now Section 44(1)(a) & (b) of the 1999 Constitution. By logical extension and deduction thereof, it holds right to say that where property including land is acquired compulsorily by Government and surely oil companies, such as in the present case, the payment of adequate compensation is obviously imperative the right to own property carries with it the right to dispose also of the said property.

It is not logical therefore that the appellant in this case should acquire the land of the Respondents without paying adequate compensation to them see also KUKOYI & ORS v. AINA (1999)10 NWLR(pt.624)pg.233@245. (underline mine for emphasis)

We respectfully submit that, by the foregoing authorities, the only conditions under which the Respondents would be allowed to compulsorily acquire Applicant Farm land is upon issuance of notice of acquisition, and prompt payment of adequate compensation to the Applicant.

We humbly urge my Lord to so hold, and to resolve Issue No.2 in favour of the Applicant.

4.3.1 ISSUE 3

Whether the Applicant is entitled to adequate compensation for the compulsory acquisition of the applicant's farmland?

4.3.2 My Lord, this issue was formulated in respect of the alternative relief for compensation, and we answer the issue in the affirmative. We refer this Honourable Court to the case of AG MID-WESTERN STATE v. ESI (1977) LPELR-3155(SC):

"Under these principles the owner of land compulsorily acquired is entitled to the market value of that land at the time the intention to acquire was made known to him. In other words, under Cap 105 aforesaid the interest of every owner (or proprietor) of land and buildings thereon shall be valued rebus sic stantibus just as it exists at the time when the notice of intention to acquire was served on him." Per CHUKWUNWEIKE IDIGBE, JSC (Pp 18 - 20 Paras F - A).

See also the case of ELF PETROLEUM v. UMARU & ORS. (2018) LPELR- 43600 (SC)

We humbly urge my Lord to so hold, and to resolve Issue No.3 in favour of the Applicant.

5.0. SUMMARY OF POINTS MADE

- (1) The Applicant is suing in respect of forceful takeover of right and possession his family land measuring 0.738 hectares and situate at Tunga, Chanchaga Local Government Area, Niger State.
- (2) The 1st, 2nd, 3rd, and 4th Respondents forcefully took possession and right over the land without notifying the Applicant, thereby denying Applicant fair hearing and free usage of Applicant's farm land without complying with the lawful procedure on acquisition.
- (3) The Applicant by the virtue of section 36, 43 and 44 of the 1999 Constitution of Federal Republic of Nigeria (as Amended), Article 10 and 17 of the Universal Declaration of Human Rights (UDHR) 1948 as well as Article 7 and 14 of

African Charter on Human and People's Right (Ratification and Enforcement) Act Cap 9, Laws of Federation of Nigeria 2004 is entitled to right to fair hearing and freedom to own and have possession of immovable property.

(4) The Applicant's rights to fair hearing and own immovable property and Compensation in the event of compulsory acquisition of right and possession have been breached

(5) The Applicant has right to enforce his fundamental human right when his rights have been breached, are being breached or likely to be breached.

6.0 CONCLUSION

6.1 The Applicant in this suit has established that he has unalienable right to fair hearing and to own immovable property and compensation in the event of compulsory acquisition under Chapter 4 of 1999 Constitution. The Applicant has also established that the right becomes enforceable upon being breached or likely to be breached by the Respondents. The Applicant has established that his guaranteed rights were breached by the respondents.

6.2. It is in this light we most humbly urge this Honorable Court to grant all the prayers of the Applicant.

6.3 We are most oblige!

7.1 LIST OF AUTHORITIES

7.2 STATUTES

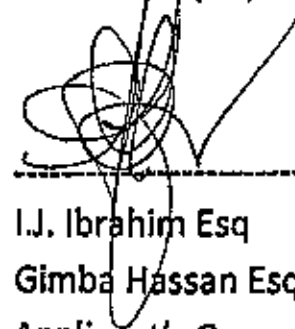
1. Constitution of the Federal Republic of Nigeria 1999 as amended.
2. Universal Declaration of Human Rights (UDHR) 1948
3. African Charter on Human and People's Right (Ratification and Enforcement) Act Cap 9, Laws of Federation of Nigeria 2004
4. Land Use Act 1978 whether the 1st Respondent breached the Applicant's right to fair hearing.

7.3 CASES

1. ORIANZI v. AG RIVERS STATE & ORS (2017) LPELR-41737(SC)
2. NIGERIA ENGINEERING WORKS LTD . v. DENAP LTD & ANOR (2001) LPELR-2002 (SC).

3. ONONUJU v. AG ANAMBRA STATE (2009)2 NWLR p. (1148) 182 @ p. 221
4. NIGERIA ENGINEERING WORKS LTD . v. DENAP LTD & ANOR (2001) LPELR-2002 (SC).
5. BARAYA V. ABDULLAHI (2017) LPELR-43371 (CA).
6. ATOBATELE v. LEKKI CONCESSION COMPANY LTD & ANOR (2017) LPELR - 43041 (CA).
7. PETROLEUM v. UMARU & ORS. (2018) LPELR- 43600 (SC).
8. AG MID-WESTERN STATE v. ESI (1977) LPELR-3155(SC)
9. PETROLEUM v. UMARU & ORS. (2018) LPELR- 43600 (SC).

18th DAY OF March 2024



I.J. Ibrahim Esq
Gimba Hassan Esq.
Applicant's Counsel,
Guidance Chambers,
Opposite AEDC Office, Tunga,
Minna Niger State
08036981234.

FOR SERVICE ON:

Lawal Abubakar ESQ.

Ag. Director, Rent Tribunal,

1st, 2nd and 3rd Respondents' Counsel.

Ministry of Justice, Minna, Niger State.

4th Respondent:

The National Hydro Electric Power, Producing Area Development Commission,
Abdulsalam Abubakar Way, Senator Dahiru Awaisu Kuta Complex, Minna, Niger
State.

IN THE NIGER STATE HIGH COURT OF JUSTICE OF NIGERIA
IN THE MINNA JUDICIAL DIVISION
HOLDEN AT MINNA

SUIT NO.....

Motion No:

IN THE MATTER OF AN APPLICATION BY GARBA GALADIMA PAIDA FOR AN ORDER FOR THE ENFORCEMENT OF HIS FUNDAMENTAL HUMAN RIGHTS TO FAIR HEARING AND OWN IMMOVABLE PROPERTY AS ENTRENCHED IN SECTIONS 36, 43, 44(1)A-B AND 46 OF THE 1999 CONSTITUTION OF THE FEDERAL REPUBLIC OF NIGERIA (AS AMENDED), THE UNIVERSAL DECLARATION OF HUMAN RIGHTS (UDHR) 1948 AND AFRICAN CHARTER ON HUMAN RIGHT AND PEOPLES' RIGHTS (RATIFICATION AND ENFORCEMENT) ACT CAP A9 L.F.N. 2004.

BETWEEN

GARBA GALADIMA PAIDAAPPLICANT/APPLICANT

(Suing for himself and on behalf of the family of Late Galadima Paidia)

AND

1. GOVERNOR OF NIGER STATE

2.HON. ATTORNEY GENERAL AND COMMISSIONER OF JUSTICE
NIGER STATE

3. HON. COMMISSIONER OF LAND & HOUSING, NIGER STATE

4. NIGER STATE TRUST FUND

5.NATIONAL HYDRO ELECTRIC POWER PRODUCING AREA
DEVELOPMENT COMMISSIONRESPONDENTS

WRITTEN ADDRESS

1.0 INTRODUCTION:

The present application is brought pursuant to Order 6 Rule 3 of the Fundamental Enforcement procedure rules 2009 and under the inherent jurisdiction of this Honourable Court and seeks the leave of the court to amend the applicant's Originating motion on notice. The proposed amendment is annexed to this application as exhibit A. to further support the application is an affidavit of 5 paragraphs deposed to by the Ibrahim Idrisu litigation secretary Guidance Chambers.

2.0 ISSUE FOR DETERMINATION

We humbly formulate a sole issue for determination and that is:

**WHETHER THIS HONOURABLE COURT HAS THE POWER TO
GRANT THIS APPLICATION.**

3.0 LEGAL ARGUMENT

3.1 This application is brought pursuant to Order 6 Rule 3 of the Fundamental Enforcement procedure rules 2009. By this order above, this Honourable Court is empowered with abundant discretionary powers to grant an application of this nature.

3.2 Order 6 Rule 3 of the Fundamental Enforcement procedure rules 2009 provides:

"The application for amendment shall be supported by an exhibit of the proposed application to be amended and may be allowed by the Court upon such terms or otherwise as may be just."

3.3 My Lord, we submit with respect that by this provision above, this Honourable Court is clothed with the powers to grant this application.

3.4 The amendment is warranted due to the extinction of the 4th respondent and to reflect the true parties and facts of the case as we have already deposed to in our supporting affidavit. We further rely on the case of **EFCC v. A.G EKITI STATE (2019) LPELR-47495(CA)** where the Court held that:

"It is trite and elementary that, the principle governing the grant of leave to amend is for the purpose of determining the real issue or issues in controversy between the parties. It is a long standing principle adhered to by the Courts and was thus firmly stated by the apex Court: "The Courts have always followed the established

principle that the fundamental object of adjudication is to decide the rights of the parties and not to impose sanctions merely for mistakes they make in the conduct of their cases by deciding otherwise than in accordance with their rights." Per Achike JSC of blessed memory in the case of **ALSTHOM S. A. V. CHIEF SARA KI** 2000 14 NWLR PT. 687 P. 415. See also the cases of **ALHJ MOHAMMED YUSUFU** Per **ELFRIEDA OLUWAYEMISI WILLIAMS-DAWODU**, JCA (Pp 7 - 15 Paras E - B)

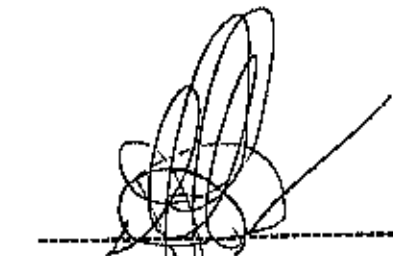
3.5 The amended process is attached to this motion as Exhibit "A"

4.0 SUMMARY/CONCLUSION;

4.1 We finally urge My Lord to grant this Application in line with Order 6 Rule 3 of the Fundamental Enforcement procedure rules 2009.

4.2 we are most grateful

Dated this 18th day of March, 2024.



I.J. Ibrahim Esq.
Hassan Gimba Esq.
Applicant's Counsel,
Guidance Chambers,
Opposite AEDC Office, Tunga,
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08036981234.

FOR SERVICE ON THE RESPONDENTS:

1. GOVERNOR OF NIGER STATE
2. HON. ATTORNEY GENERAL AND
the COMMISSIONER OF JUSTICE NIGER STATE

3. HON. COMM. OF LAND & HOUSING, NIGER STATE

4. The Niger State Trust Fund

5. The National Hydro Electric Power, Producing Area Development
Commission.

C/O the Office of
Attorney General and
Commissioner for
Justice, Minna, Niger
State