

8:39am
HIGH COURT REGISTRY
BENIN CITY, EDO STATE
DATE: 6/9/19

Court copy
Ct 4 29/19

FORM 12
MEMORANDUM OF APPEARANCE
(O. 9 r. 1)

IN THE HIGH COURT OF EDO STATE
IN THE BENIN JUDICIAL DIVISION
HOLDEN AT BENIN CITY

SUIT NO: B/329/2018

BETWEEN

- 1. Mamudu S. B. Ikharo
- 2. Yahaya Ikharo
(For themselves and on behalf of Ikharo Ruling House of Auchi)

} CLAIMANTS

AND

- 1. Attorney General, Edo State
- 2. Permanent Secretary, Ministry of Local government & Chieftaincy Affairs, Edo State.
- 3. HRH Alhaji A.H Momoh
(Ikelebe III, The Otaru of Auchi)
- 4. Pa Iliasu Elido Momoh
(Odion of Usogun Village)
- 5. Chief M.G Braimah
(Odion of Akpekpe Village)
- 6. Pa Abdulai Emoabino
(Odion of Aibotse Village)
- 7. Pa Osuma Okhai
(Odion of Igbe/Iyekhei village)
For Themselves and on behalf of Auchi Kingdom
- 8. Pa Yakubu Usman
(For himself and on behalf of Omonofua/Igechi/
Omomo Branch of Ikelebe Ruling House of Auchi)
- 9. Yahaya Mamudu Harrison
(for himself and on behalf of Abikhiele
Branch of Ikelebe Ruling House of Auchi)
- 10. Mallam Salami Aliu Idao
(For himself and on behalf of Idao
Branch of Ikelebe Ruling House of Auchi)

} DEFENDANTS

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DATE

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P/12
20/11/2020

- c) A defendant appearing in person must give his resident or some other place within the Judicial Division of Edo State to which communication for him should be sent. Where he appears by a legal practitioner, the legal practitioners' place of business.
- 2. Where the defendant is a firm, the appearance must be entered by the individual partners by Name with the description "partner in the firm of"
- 3. Where the defendant is an individual trading in a name other than his own, the appearance must be entered in his own name with the addition of the description "Trading as"
- 4. Where the defendant is a limited liability company, the appearance must be entered by a legal practitioner.
- 5. Where the appearance is being entered by leave of Court a copy of the order granting leave must accompany this form.
- 6. Where the defendant has no defence or admits the claimant's claim, the entry of appearance will delay judgment and may increase the cost payable by the defendant.
- 7. Acknowledgment of service shall be as follows:

The 3rd -7th Defendants acknowledged that on the 10th of July, 2019 at 9:45 am at the High Court complex Sapele Road Benin City received the following process

- a. Amended Writ of Summons
- b. Amended Statement of Claim
- c. Copies and List of Documents to be relied on at the trial
- d. 6 documents to be relied on, all being letters and correspondence between the Claimants and the 2nd Defendant

The 3rd -7th Defendant acknowledge that they are the persons referred to in the sealed copy of the originating process

Dated 5th day of September, 2019



Salman Yaqoob Dako
Solicitor to the 3rd -7th Defendants

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SIGNATURE 

NAME T. Eghobami

RANK PLR

DATE 20/12/20

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Filing #200
MHA #200
Coaths #200
Service #500
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IN THE HIGH COURT OF EDO STATE
IN THE BENIN JUDICIAL DIVISION
HOLDEN AT BENIN CITY

SUIT NO: B/329/2018

BETWEEN

- 1. Mamudu S. B. Ikharo
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 - 9. Yahaya Mamudu Harrison
(for himself and on behalf of Abikhiele Branch of Ikelebe Ruling House of Auchi)
 - 10. Mallam Salami Aliu Idao
(For himself and on behalf of Idao Branch of Ikelebe Ruling House of Auchi)
- } DEFENDANTS

3RD - 7TH DEFENDANTS' STATEMENT OF DEFENCE

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SIGNATURE.....*[Signature]*.....

NAME *J. Eghobamun*

PROF. *PLR*


DATE *20.1.2020*

SAVE AND EXCEPT as is hereinafter specifically admitted, the 3rd -7th Defendants deny each and every allegation of facts contained in the Statement of Claim as if same were specifically set out herein and traversed seriatim.

1. The 3rd -7th Defendants deny paragraph 1 and 2 of the statement of claim in its entirety, and in answer to the aforesaid paragraphs the 3rd -7th Defendants aver that the 1st Claimant is not the head of Ikharo Sub-Ruling House of Ikelebe. The 3rd -7th Defendants categorically states that- Ikharo Sub-Ruling House is not entitled to become the next Otaru of Auchi by Auchi custom and tradition or by inheritance.
2. The 3rd -7th Defendants are not in a position to admit or deny the averments in paragraph 2 of the Statement of Claim as to whether the 2nd Claimant is a member of Ikharo Sub-Ruling House.
3. The 3rd -7th Defendants admits paragraphs 3, 4, 5, 10, 11 and 12 of the Statement of Claim.
4. The 3rd -7th Defendants deny the Claimants averments in paragraphs 6, 7, 8, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38 and 39 of the statement of claim and shall, at the trial of this suit, put the Claimants to the strictest proof thereof.
5. Other than to state and admit that Ikelebe Ruling House is the only Ruling House in Auchi, the 3rd -7th Defendants deny the Claimants averments in paragraphs 6, 7, 8, 9, 18, 19 and 20 of their statement of claim. Succession to the Otaru Chieftaincy Stool is **NOT** and **HAS NEVER BEEN** by order of rotation among the Branches or Sub-Ruling Houses of Ikelebe Ruling House.
6. In further denial of all the Claimants' averments that Auchi custom and tradition recognizes the rotation of Otaru Chieftaincy stool among the sub-ruling houses (especially as contained in paragraphs 6, 7, 8, 18, 19, 20 and 39 of their statement of claim) the 3rd -7th Defendants emphatically state that the idea of rotation of the stool of Otaru of Auchi is unknown to Auchi customary practice; it is alien to Auchi natives and indigenes, it is foreign and extremely strange. It has no place in the custom and tradition of Auchi and her People.

Particulars in favour of 3rd -7th Defendants' averments against rotation of the stool of Oatru of Auchi.

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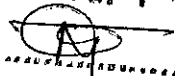
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7. The 3rd -7th Defendants deny paragraph 6, 7, 8, 12, 13, 14, 15, 16, 17, 18, 19 and 38 of the claimants' statement of claim, and in answer to the averments therein, the defendants aver as follows, that:

- a) The method of succession to the stool of Otaru chieftaincy title known to Auchi custom and tradition is open contest among the nominated/selected and eligible candidates from the four sub-ruling houses i.e.,
 - 1. Omonufua/Igechi/Omomo,
 - 2. Idao,
 - 3. Ikharo and
 - 4. Abikhiele.
- b) Auchi custom and tradition does not recognize order of rotation as a method of filling a vacant stool. At no time in the history of Auchi was it adopted or agreed to be adopted among the sub-ruling houses of Ikelebe.
- c) Ikelebe (the first) was the first Otaru (executive Ruler) of Auchi. He is the son of madam Aneke the daughter of Otsudo the son of Utsogu, the son of Uchi- the progenitor of Auchi people who migrated from Benin.
- d) Ikelebe reigned as Otaru of Auchi from 1851-1872. He was crowned the first Otaru of Auchi in compensation for the murder of his mother (i.e., Aneke) by the Nupe invaders. This peculiar circumstance led the people of Auchi especially Afotsudo kindred (i.e., the Family of Otsudo, the first son of Ustogun, the first son of Uchi- the progenitor of Auchi people) to favour the selection of an adult male child of Aneke as the first Ruler of Auchi.
- e) Otaru Ikelebe had an elder brother called Onura. Onura was disreputably known and considered to be irresponsible. Due to Onura's wayward disposition in life, Ikelebe was preferred by Afotsudo kindred and other quarters of Auchi to lead Auchi as the first Otaru/ruler. He was preferred among his siblings to lead Auchi owing to his good reputation and acceptance/popularity as against his elder brother Onura
- f) From time immemorial in Auchi, suitability, reputation and popularity has been the criteria for selection of a candidate (among the contesting candidates from Ikelebe ruling house) to fill the stool of Otaru whenever it becomes vacant.
- g) On the death of Ikelebe in 1872, his uterine brother Imoudu (of the same mother but different father) succeeded Ikelebe from 1872-1884. The stool was heavily contested by Imoudu, Omoaka and Ikelebe's second son- Idao. Though, Omonufua Otaru Ikelebe's first son survived his father, he was

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generally considered not suitable to fill the vacant stool. So, the contest was among the 3 suitable candidates aforementioned.

- h) Otaru Imoudu was selected to fill the vacant stool by the elders of Afotsudo because he was considered to be more experienced than his nephew **Idao**. The elders of Afotsudo and Auchi considered Imoudu to have been well mentored for the stool of Otaru by his elder brother Otaru Ikelebe who he understudied keenly.
- i) Otaru Imoudu was succeeded by his nephew **Idao** the second son of Ikelebe who had earlier contested against him and lost. Otaru Idao reigned from 1885-1905. His emergence as the Otaru of Auchi was through a selection process that saw his cousin **Omoaka** contest against him.
- j) After the death of Otaru Idao in 1905, **Ikharo** the 3rd son of Ikelebe contested the throne against his cousin **Odifili** the son of Aleonote. Odifili was favoured to ascend the stool of Otaru owing to his considered reputation as a competent and fearless warrior. An attribute that endeared him more to Auchi people and Afotsudo kindred.
- k) Otaru Odifili reigned as the 4th Otaru of Auchi for 3 months before he died in 1905 the year he was installed. He was succeeded by **Ikharo** the 3rd son of Otaru Ikelebe as the 5th Otaru of Auchi. Ikharo's emergence as the 5th Otaru was not without a serious contest. His younger brother **Igechi** the son of Ikelebe had put up a serious contest against him. He was favoured to ascend the throne of Otaru primarily due to his good countenance and experience.
- l) Due to frailty of old age, Otaru Ikharo appointed Momoh Oshiogbele Idao (his nephew- the son of Idao the 3rd Otaru of Auchi) as his *Uko* i.e., representative for all official duties in neighboring towns. Otaru Ikharo reigned from 1905-1919. Upon his death in 1919 his Uko (i.e. representative or deputy) **Momoh Oshiogbele Idao** ascended the throne with wide acceptance from Ikelebe family and the entire Auchi because of his wealth of knowledge, good reputation and popularity. He reigned as the 6th Otaru of Auchi from 1919-1944.
- m) Otaru Ikharo was survived by three (3) younger brothers, i.e., **Ikhafu**, **Idalu** and **Abikhiele**. These three sons of Ikelebe couldn't succeed their brother to the throne of their father because the stool of Otaru was not rotated among them (i.e., children of Ikelebe), the order of rotation was unthought of and unknown to Auchi custom and tradition.

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NAME..... **J. Eghobame**

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DATE..... **20/11/2020**

- n) The death of Ikharo in 1919 coincides with the advent of British colonial rule in southern Nigeria. With this development, the suitability of a candidate for the stool of Otaru became dependent on his ability to effectively represent and protect the interest of Auchi before the colonial government.
 - o) These qualities were found in abundance in Momoh Oshiogbele Idao who as at 1919 communicated effectively in English language and related well with the colonial Government.
 - p) Momoh Oshiogbele Idao haven acted on behalf of Otaru Ikharo as a representative of the king outside Auchi at the seat of colonial administration in Idda, Ubiaja, Fugar and other places, he became the most suitable and preferred candidate to fill the vacant stool of Otaru. Contrary to the Claimants' averment in paragraph 16 of their extant statement of Claim, Momoh Oshiogbele Idao was not nominated by Ikhafo and he was not the oldest grandson of Otaru Ikelebe in 1919 when he ascended the throne.
 - q) In 1945 **Prince M.J Momoh** succeeded his father Otaru Momoh Oshiogbele Idao as the 7th Otaru of Auchi in an open contest that saw the defeat of **Ibrahim Ikharo** (also known as Brai Ikharo), and **Chief Kadiri Idao** (also known as Kadiri Chief).
 - r) The 3rd -7th Defendants aver that the above contestants rightly subjected themselves to open contest which is the acknowledged and well-known customary procedure for filling a vacant Otaru chieftaincy stool in Auchi.
8. The 3rd -7th Defendants deny paragraph 17 of the statement of claim and in further response, aver that; for the first time, the British colonial administration had to look closely into the question of succession to the throne of Otaru under Auchi customary law due to the heat generated when Otaru M. J Momoh sought to succeed his father Otaru Momoh Oshiogbele Idao. The inquiry by the then Resident of Benin Province led to the following findings:
- a. There is one ruling House which is the Ikelebe Ruling House.
 - b. Any of the sons of a late Otaru is eligible to be an Otaru
 - c. No qualified candidate is entitled to any priority claim over the other on grounds of being a son of a particular Otaru or person.


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- d. The Otaru must be the candidate presented by the Ikelebe family and if more than one candidate is presented, then the one accepted by Auchi people.
 - e. The three candidates were each qualified.
9. At a well attended gathering of Auchi Chiefs, Elders and Elites/Progressives, the Resident of Benin province called for an election among the contending candidates.
- a. It was at this gathering of Auchi Council of Chiefs and Elders that Prince M. J Momoh was overwhelmingly voted in with 40 votes. He became the 7th Otaru of Auchi thereby succeeding his late father Otaru Momoh Oshiogbele Idao.
 - b. Prince Ibrahim Ikharo who contested against Prince M. J Momoh had four (4) votes and Chief kadiri Idao had one (1) vote. The succession of M. J Momoh to the throne of Auchi was guided exclusively by Auchi custom and tradition without the directive or aid of any written enactment.
10. In further denial of paragraph 17 and 23 of the statement of claim, the 3rd -7th Defendant aver that; **Otaru Abu Keremi Momoh** was elected by elders of Afotsudo kindred to succeed Otaru M.J Momoh. The contest for the stool was between himself, Ibrahim Ikharo, Chief Kadiri Idao and S. M. J Momoh. The Defendants herein are aware that there is no dispute between the Ikharo sub-ruling house and 3rd -10th Defendants nor any other party regarding the present method of succession to the stool of Otaru of Auchi. This averment is premised on the fact that at all material time in the past and present, members of Ikharo sub ruling house have served Auchi Community under all the previous Otaru (from Momoh Oshiogbele Idao to the present Otaru) as turbaned Chiefs, Executive members and members of palace committees. They have at all time participated in open contest for the throne and accepted the outcome of the contest by serving under all the Otaru from Idao sub ruling house.
11. The 3rd -7th Defendants aver that Chief Osiozekhai the Dania of Afakpologodo in Afotsudo presented Abu Keremi Momoh the Otaru-elect to the **Auchi Clan Council** which was presided over by Chief Musa Itsene the Daudu of Akpekpe because the Daudu of Utsogun, Chief kadiri Idao was one of the contestants and therefore an interested party. Abu Keremi Momoh's nomination was accepted by the Council and subsequently ratified by the government and installed as the 8th Otaru of Auchi on the 8th of November 1955.

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- 12. The 3rd -7th Defendants aver that the selection and acceptance of Abu Keremi Momoh by Afotsudo kindred through its elders and the entire Auchi people through the Auchi Clan Council was an exercise guided exclusively by Auchi customary practice.
- 13. The 3rd -7th Defendants deny paragraph 20, 22 and 23 of the statement of claim and aver that Auchi custom and tradition does not recognize the exclusive right of Ikharo sub-ruling house or any other sub-ruling house to fill a vacant stool of Otaru chieftaincy title at any given time whatsoever.
- 14. The 3rd -7th Defendants aver that all the Sub-Ruling Houses in Ikelebe Ruling House are all entitled to present their nominated candidates who will contest for the vacant stool in an open contest in line with the applicable declaration of customary Law regulating succession to traditional ruler title as contained in the Bendel State Legal Notice of 1979.
- 15. The 3rd -7th Defendants deny paragraph 25 of the statement of claim and in response thereto states that; after the death of Otaru Abu Keremi Momoh in 1970, the claimants Sub-Ruling House nominated A.O Ikharo from their sub ruling house to vie for the throne of Otaru against Prince A.G. Momoh of Idao sub-ruling house in an open contest that saw the defeat of A.O Ikharo. The 1st and 2nd Defendants thereafter ratified the selection of Prince A.G. Momoh as the 9th Otaru of Auchi.
- 16. The 3rd -7th Defendants deny the Claimants' averment in paragraph 25 of their statement of claim and state that there was no resultant disputes/crisis in the selection of Otaru in Auchi. The Claimants were neither oppressed nor suppressed, nor were they subjugated by any of the Defendants. The customs and tradition of Auchi were also not contravened at any time whatsoever.
- 17. In response to paragraph 27 of the statement of claim, the 3rd -7th Defendants state that the Odjugo Commission of inquiry was set up to advise the government on the custom and tradition of succession to the stool of Otaru chieftaincy in Auchi.
- 18. In response to paragraph 28 and in further response to paragraph 27 of the statement of claim, the 3rd -7th Defendants admit that the Odjugo Commission of inquiry carried out deliberations and made enquiries into the method of succession to the stool of Otaru Chieftaincy title, the Defendants however aver that some of its recommendations were rejected by the Government.

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Specifically, the idea of rotation was rejected and the reduction of the number of Sub-Ruling Houses from 4 to 2 was also rejected.

19. The 3rd -7th Defendants aver that the report of the Odjugo Commission of inquiry was reviewed by Government, some of the recommendations in the report that were not founded on the evidence led at the hearing of the inquiry was rejected and a white paper was issued on the position of Government. It was after the issuing of a white paper by the then Government of Bendel State that staff of office was presented to Alhaji A.G Momoh as the 9th Otaru of Auchi. The 3rd -7th Defendants shall rely on the following Books and Documents:

- a. Origin and Development of Auchi by Alhaji Chief K.M Seghosime (J.P)
- b. A History of Auchi by Abdulrahman Osioko Arunah.
- c. Document titled Appointment of Alhaji A.G Momoh Ikelebe II as Otaru of Auchi dated 20th September 1973
- d. Minute of Auchi Community Meeting dated 7th May, 1767.

20. In further response to paragraph 27 and 28 of the statement of claim, the 3rd -7th Defendants aver that the Odjugo report strayed in its recommendation of two (2) sub-ruling houses in place of the customarily recognized four (4) Sub-Ruling Houses. The report of the Commission of inquiry further strayed from the evidence led at the inquiry by recommending rotation of the Otaru chieftaincy title between two of the four sub-ruling houses (i.e., Ikharo and Idao).

21. The 3rd -7th Defendants deny paragraph 28 of the statement of claim and aver that they have never manipulated nor oppressed the claimants in any way whatsoever.

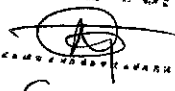
22. The 3rd -7th Defendant deny paragraph 29 and 30 of the statement of claim and in response thereto state that in 1996 when Otaru A.G Momoh died, the four sub-ruling houses were called upon by the Odion of Usogun Chief U. O Musa to nominate their respective candidates to fill the vacant stool of Otaru of Auchi in line with Auchi custom and tradition pursuant to the Traditional Rulers and Chiefs Edict, 1979 and Bendel state Legal Notice. 133 of 1979.

23. The 3rd -7th Defendants deny paragraph 31, 32 and 33 and aver further that the Claimants' sub-ruling house have participated in all the previous open contest that produced the past and present Otaru of Auchi. The Claimants and their sub-ruling house are precluded by the doctrine of *estoppel by conduct* from filing this action for haven acquiesced and participated in open contest for the stool:

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NAME I. Eghobamuel

RANK PIR


DATE 20/1/2000

Particulars of Estoppel

- e. After the death of Alhaji A.G Momoh, Prince Momodu Ikharo (also known as M.S. Ikharo) was nominated by Ikharo sub-ruling house to contest against Prince A.H. Momoh the nominee of Idao sub-ruling house in the customary open contest for the stool of Otaru.
- f. In a letter dated 7th June 1996 with Ref No IDU/vol.1/96/004, late Alhaji Prince Isa Ikharo who was the Head of the Ikharo branch of Ikelebe Ruling House wrote to the Chairman of the selection committee of Otaru of Auchi the Odion of Usogun. In the said letter he acknowledged open contest and voting as the customary practice of selecting a successor to the throne of Otaru of Auchi.
- g. In another letter dated 6th June 1996 with Ref No. IDU/vol.1/96/002, M.A Ikharo (secretary) on behalf of the head of the Ikharo family wrote to the Odion of Usogun (in the Odion's capacity as the chairman of the selection committee of Otaru of Auchi) wherein he acknowledged the provisions of Bendel State Legal Notice 133 of 1979 as the extant and binding declaration regulating succession to the stool of Otaru of Auchi.
- h. Sometimes in 1996, the 2nd Defendant in a letter dated 3rd July, 1996 with Ref No CHS. 1/Vol.II/394 requested the Chairman of Etsako West Local Government Auchi among others to furnish the ministry with information in respect of statement from the Kingmakers on the nomination of the Otaru-elect of Auchi.
- i. In response to the 2nd defendant's request above, the Chairman and members of the Selection committee on the Otaru of Auchi (prominent among whom was the eldest member of Ikharo family and the second eldest member of the family acting on behalf of the Claimants) wrote to the Directorate of Local Government and Chieftaincy Affairs confirming the election of the Otaru-elect and the date of his installation and coronation. The 3rd -7th Defendants shall rely on the Etsako west local government covering letter dated 15th July 1996 with Ref no. Pol.31/Vol.III/101 addressed to the commissioner for special duties and the selection committee of Otaru of Auchi's letter dated 6th July 1996 with Ref No. UOM/O of U/08.
- j. In order to ensure that Auchi customs and traditions were effectively carried out and implemented in the selection of the Otaru-elect, the 2nd Defendant wrote another letter dated 23rd July 1996 with Ref no. CHS. 1/Vol. II/402 wherein he instructed the Chairman Etsako west local

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government Auchi to request the kingmakers of Auchi to furnish the 2nd Defendant among others with a statement confirming that the traditional installation of the Otaru-elect has been duly completed.

- k. In compliance with the 2nd Defendant's directive, the kingmakers/ selection committee of the Otaru of Auchi through the chairman of Etsako west local government forwarded their statement to the Hon. Commissioner for special duties. Therein, the committee stated 'categorically that all requirements of the Chieftaincy Declaration Law 1979 respecting filling of the vacant stool of Otaru of Auchi have been concluded without any dispute whatsoever'. The 3rd -7th Defendants shall rely on the committee's letter dated 5th August 1996 with Ref no. UOM/O of U/12 signed by all the kingmakers including Alhaji Prince Isa Ikharo the eldest member of the Claimants' family and Prince M.A. Ikharo, the second eldest man in the Claimants' family acting on behalf of the Claimants as their representatives. The 3rd -7th Defendants shall also rely on the Etsako West Local Government Chairman's letter dated 12th August 1996 with Ref no. Pol. 31/Vol. III/115 addressed to the Commissioner for Special Duties.

- l. At all material times during the selection of the present Otaru of Auchi, the Claimants' sub ruling house participated fully in the voting process and installation. They also adjudged and declared the process to be free from disputes and in compliance with the extant law regulating succession to the stool of Otaru. The defendants shall rely on the minutes of the meeting of the Auchi selection committee dated Friday 14th June, 1996.

- m. The 3rd -7th Defendants further aver that at no point in time whatsoever during the last installation exercise had the Claimants sub-ruling house raised the issue of rotation of the stool of Otaru among the four Sub-Ruling Houses.

- n. During the selection of the last Otaru of Auchi, the Claimants' Sub-Ruling House through the eldest man/head of the Ikharo family and the secretary to the family i.e., late Alhaji Prince Isa Ikharo and M.A. Ikharo wrote two letters to the Odion of Usogun wherein they suggested an expedient date for the open contest. They also protested against the choice of the second oldest man in the Claimants' family with a voting right. None of the complaint was in protest of the method of selection (i.e., open contest) and neither did they advocate for rotation of the stool nor did they claim any exclusive right to produce the next Otaru of Auchi.

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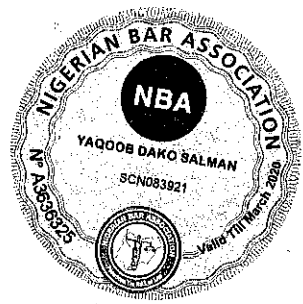
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SIGNATURE *[Signature]*
 NAME *J. Eghobamun*
 RANK *PIR*
 DATE *2011/02/20*

- 24. The Defendants deny paragraph 31, 32, 37 and 38 of the statement of claim and in answer thereto states that section 3(2) and (3) of the Traditional Ruler and Chieftaincy Law of Bendel State does not apply to the stool of Otaru of Auchi.
- 25. In response to paragraph 33 of the statement of claim, the 3rd -7th Defendants states that after due notice were published requesting the public to make submissions on the issue of succession to the stool of Otaru of Auchi and the findings of the inquiry submitted to government, the declaration in Bendel state legal notice 133 was issued in compliance with the Traditional Rulers and Chieftaincy Law to reflect the findings of government on the customary practice of Auchi people as regard succession to the stool of Otaru of Auchi.
- 26. The 3rd -7th Defendants deny paragraph 34 of the claim and state that Auchi customs and traditions were fully complied with.
- 27. The 3rd -7th Defendants in response to paragraph 35, 36 and 38 avow that the terms of reference of the Odjugo Commission of Inquiry is merely to recommend/advise the 1st and 2nd Defendant on the method of succession.
- 28. The Defendants aver and shall contend at trial that the Claimants lack the *locus standi* to institute this action.
- 29. **WHEREFORE** the Defendants states that the Claimants' claims against the Defendants are baseless, and that the suit is totally misconceived, frivolous, highly speculative, vexatious and merely calculated to embarrass and annoy the Defendants; and accordingly urges this Honourable Court to dismiss same in its entirety with substantial costs against the Claimants.

Dated 5th day of September, 2019

✓ Salman Yaqoob Dako
 Sunday Iyemeake
 Solicitors to the 3rd -7th Defendants
 Droiture Legal Practice
 Flat 2, Plot 1692, Ilesha Close,
 Area 3, Garki, Abuja.
 08061110944,
 Email: droiturelp@outlook.com



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 NAME T. Eghobamie
 P/n
 DATE 20/1/2020

Whose Address for Service Within Jurisdiction is:
c/o Collective Reliance Associates,
No. 1, Beside Arafat Mosque, Auchi.

For Service on:

- 1. **The Claimants**
c/o their Solicitors.
Dan Ose Okoh, Esq SAN
Dan Ose Okoh (SAN) & Co
Okoh Law House,
29B, Isiuwa Street,
Off Dawson Road,
Benin City.
- 2. **The 1st and 2nd Defendants'**
Ministry of Justice,
Ezoti Road, Benin City,
08056736664
- 3. **The 8th Defendant**
c/o Pa Yakubu Usman
Utsogun quarters, Auchi, Edo State
- 4. **The 9th Defendant**
c/o their Counsel
Jatto Topa Esq,
14, Aimure Avenue, Off Ihama Road.
GRA, Benin City.
jattotopa1@gmail.com 08068743224
- 5. **The 10th Defendant**
c/o their Counsel
Daud Momodu Esq
Daud Momodu & Co
12, Warrake Road,
Auchi.

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SIGNATURE.....*[Signature]*
 NAME.....*Tr. Eghobami*
 RANK.....*PLR*
 DATE.....*20/11/2020*

**KIN THE HIGH COURT OF EDO STATE
IN THE BENIN JUDICIAL DIVISION
HOLDEN AT BENIN CITY**

SUIT NO: B/329/2018

BETWEEN

- 1. Mamudu S. B. Ikharo
- 2. Yahaya Ikharo
(For themselves and on behalf of
Ikharo Ruling House of Auchi)

} **CLAIMANTS**

AND

- 1. Attorney General, Edo State
- 2. Permanent Secretary, Ministry of Local government &
Chieftaincy Affairs, Edo State.
- 3. HRH Alhaji A.H Momoh
(Ikelebe III, The Otaru of Auchi)
- 4. Pa Iliasu Elido Momoh
(Odion of Usogun Village)
- 5. Chief M.G Braimah
(Odion of Akpekpe Village)
- 6. Pa Abdulai Emoabino
(Odion of Aibotse Village)
- 7. Pa Osuma Okhai
(Odion of Igbe/Iyekhei village)
For Themselves and on behalf of Auchi Kingdom
- 8. Pa Yakubu Usman
(For himself and on behalf of Omonofua/Igechi/
Omomo Branch of Ikelebe Ruling House of Auchi)
- 9. Yahaya Mamudu Harrison
(for himself and on behalf of Abikhiele
Branch of Ikelebe Ruling House of Auchi)
- 10. Mallam Salami Aliu Idao
(For himself and on behalf of Idao
Branch of Ikelebe Ruling House of Auchi)

} **DEFENDANTS**

3RD - 7TH DEFENDANTS' LIST OF WITNESESS

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SIGNATURE 

NAME T. Eghobam

DATE 20/1/2020

DATE

1. Prince Momoh Sani Momoh
2. Prince Waz Momoh
3. Chief Alhaji Aniru Garuba (JP)
4. Chief Alhaji Yahaya Dirisu
5. Alhaji Jim Momoh
6. Prince Musa Adamu
7. Oscar Abuda Momoh

Dated 5th day of September, 2019



✓ Salman Yaqoob Dako
 Sunday Iyemeake
Solicitors to the 3rd -7th Defendants
Droiture Legal Practice
 Flat 2, Plot 1692, Ilesha Close,
 Area 3, Garki, Abuja.
 08061110944,
 Email: droiturelp@outlook.com

Whose Address for Service **Within Jurisdiction** is:
 c/o Collective Reliance Associates,
 No. 1, Beside Arafat Mosque, Auchi.

For Service on:

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 c/o their Solicitors.
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2. **The 1st and 2nd Defendants'**
 Ministry of Justice,
 Ezoti Road, Benin City,
 08056736664
3. **The 8th Defendant**
 c/o Pa Yakubu Usman
 Utsogun quarters, Auchi, Edo State

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NAME T. C. Eghobamie

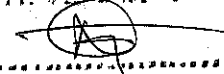
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4. **The 9th Defendant**
 c/o their Counsel
 Jatto Topa Esq,
 14, Aimure Avenue, Off Ihama Road.
 GRA, Benin City.
Jattotopa1@gmail.com 08068743224

5. **The 10th Defendant**
 c/o their Counsel
 Daud Momodu Esq
 Daud Momodu & Co
 12, Warrake Road,
 Auchu.

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NAME T. G. G. G. G.

RANK PR

DATE 20/1/2020

IN THE HIGH COURT OF EDO STATE
IN THE BENIN JUDICIAL DIVISION
HOLDEN AT BENIN CITY

SUIT NO: B/329/2018

BETWEEN

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Branch of Ikelebe Ruling House of Auchi)
- 10. Mallam Salami Aliu-Idao
(For himself and on behalf of Idao
Branch of Ikelebe Ruling House of Auchi)

} DEFENDANTS

3RD - 7TH DEFENDANTS' WITNESS STATEMENT ON OATH

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Page 1 of 11

NAME..... T. Egboman

RANK..... PPR

DATE..... 20/1/2018

I, Alhaji Jim Momoh, Male, Muslim, Nigerian, Retired Civil Servant and resident of Auchi, Etsako West Local government Area, Edo State, do hereby state on oath as follow:

1. The 1st Claimant is not the head of Ikharo Sub-Ruling House of Ikelebe. Ikharo Sub-Ruling House is not entitled by Auchi custom and tradition to become the next Otaru of Auchi and they are also not so entitled by inheritance.
2. Ikelebe Ruling House is the only Ruling House in Auchi. The stool of Otaru of Auchi Chieftaincy title is **NOT** and **HAS NEVER BEEN** by order of rotation among the Branches or Sub-Ruling Houses of Ikelebe Ruling House.
3. The idea of rotation of the stool of Otaru of Auchi is unknown to Auchi customary practice; it is strange to us. It has no place in the custom and tradition of Auchi and her People.
4. I know as a matter of fact from the oral tradition and history of Auchi kingdom which I know, and from what was narrated to me by elders and historians, and further corroborated by facts narrated to me by my late father Prince Haruna Momoh Jimah Momoh from the facts he told me he knew personally and those he was told by his father Otaru Momoh Jimah Momoh the son of Otaru Momoh Oshiogbiele Idao the son of Idao, the son of Ikelebe; that:
 - a) Succession to the stool of Otaru is by open contest among the nominated/selected and eligible candidates from the four sub-ruling houses i.e.,
 1. Omonufua/Igechi/Omomo,
 2. Idao,
 3. Ikharo and
 4. Abikhiele.
 - b) Auchi custom and tradition does not recognize order of rotation as a method of filling a vacant stool. The order of rotation has never been used nor adopted in the selection of a candidate to fill a vacant stool. And neither was it agreed to be adopted at any time whatsoever in the history of Auchi.
 - c) Ikelebe (the first) was the first Otaru (executive Ruler) of Auchi. He is the son of madam Aneke the daughter of Otsudo the son of Utsogu, the son of Uchi- the progenitor of Auchi people who migrated from Benin.
 - d) Ikelebe reigned as Otaru of Auchi from 1851-1872. He was crowned the first Otaru of Auchi in compensation for the murder of his mother (i.e., Aneke)

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by the Nupe invaders. This peculiar circumstance led the people of Auchi especially Afotsudo kindred (i.e., the Family of Otsudo, the first son of Ustogun, the first son of Uchi- the progenitor of Auchi people) to favour the selection of an adult male child of Aneke as the first Ruler of Auchi.

- e) Otaru Ikelebe had an elder brother called **Onura**. **Onura** was disreputably known and considered to be irresponsible. Due to **Onura's** wayward disposition in life, Ikelebe was preferred by Afotsudo kindred and other quarters of Auchi to lead Auchi as the first Otaru/ruler. He was preferred among his siblings to lead Auchi owing to his good reputation and acceptance/popularity as against his elder brother **Onura**
- f) From time immemorial in Auchi, suitability, reputation and popularity has been the criteria for selection of a candidate (among the contesting candidates from Ikelebe ruling house) to fill the stool of Otaru whenever it becomes vacant.
- g) On the death of Ikelebe in 1872, his uterine brother **Imoudu** (of the same mother but different father) succeeded Ikelebe from 1872-1884. The stool was heavily contested by **Imoudu**, **Omoaka** and Ikelebe's second son- **Idao**. Though, **Omonufua** Otaru Ikelebe's first son survived his father, he was generally considered not suitable to fill the vacant stool. So, the contest was among the three suitable candidates aforementioned.
- h) Otaru **Imoudu** was selected to fill the vacant stool by the elders of Afotsudo because he was considered to be more experienced than his nephew **Idao**. The elders of Afotsudo and Auchi considered **Imoudu** to have been well mentored for the stool of Otaru by his elder brother Otaru Ikelebe who he understudied keenly. **Imoudu** was qualified to fill the vacant stool of Otaru been a member of Otaru Ikelebe's family having been mentored by his elder brother Ikelebe after the death of their mother.
- i) Otaru **Imoudu** was succeeded by his nephew **Idao** the second son of Ikelebe who had earlier contested against him and lost. Otaru **Idao** reigned from 1885-1905. His emergence as the Otaru of Auchi was through a selection process that saw his cousin **Omoaka** contest against him. His choice as the new Otaru of Auchi did not go down well with his cousin **Omoaka**. This led to bitter rivalry between both contestants even after the installation of **Idao** as the 3rd Otaru of Auchi.
- j) After the death of Otaru **Idao** in 1905, **Ikharo** the 3rd son of Ikelebe contested the throne against his own cousin **Odifili** the son of **Aleonote**. Both **Odifili**

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and Ikharo were competent, but Odifili was favoured to ascend the stool of Otaru owing to his considered reputation as a fearless warrior.

- k) Otaru Odifili reigned as the 4th Otaru of Auchi for 3 months before he died in 1905 the year he was installed. He was succeeded by **Ikharo** the 3rd son of Otaru Ikelebe as the 5th Otaru of Auchi. Ikharo's emergence as the 5th Otaru was not without a serious contest. His younger brother **Igechi** the son of Ikelebe had put up a serious contest against him. He was favoured to ascend the throne of Otaru primarily due to his elderly disposition, good countenance and experience.
- l) Due to frailty of old age, Otaru Ikharo appointed Momoh Oshiogbele Idao (his nephew- the son of Idao the 3rd Otaru of Auchi) as his *Uko* i.e., representative for all official duties in neighboring towns. Otaru Ikharo reigned from 1905-1919. Upon his death in 1919 his Uko (i.e. representative or deputy) **Momoh Oshiogbele Idao** ascended the throne with wide acceptance from Ikelebe family and the entire Auchi because of his wealth of knowledge, good reputation and popularity. He reigned as the 6th Otaru of Auchi from 1919-1944.
- m) Otaru Ikharo was survived by three (3) younger brothers, i.e., **Ikhafo, Idalu and Abikhiele**. These three sons of Ikelebe couldn't succeed their brother to the throne of their father because the stool of Otaru was not rotated among them (i.e., children of Ikelebe), the order of rotation was unthought of and unknown to Auchi custom and tradition.
- n) The death of Ikharo in 1919 coincides with the advent of British colonial rule in southern Nigeria. With this development, the suitability of a candidate for the stool of Otaru became dependent on his ability to effectively represent and protect the interest of Auchi before the colonial government.
- o) These qualities were found in abundance in Momoh Oshiogbele Idao who as at 1919 communicated effectively in English language and related well with the colonial Government.
- p) Momoh Oshiogbele Idao haven acted on behalf of Otaru Ikharo as a representative of the king outside Auchi at the seat of colonial administration in Idda, Ubiaja, Fugar and other places, he became the most suitable and preferred candidate to fill the vacant stool of Otaru. Momoh Oshiogbele Idao was not nominated by Ikhafo and he was not the oldest grandson of Otaru Ikelebe in 1919 when he ascended the throne.

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q) In 1945 Prince M.J Momoh succeeded his father Otaru Momoh Oshiogbele Idao as the 7th Otaru of Auchi in an open contest that saw the defeat of Ibrahim Ikharo (also known as Brai Ikharo, who is the son of Otaru Ikharo), and Chief Kadiri Idao (also known as Kadiri Chief, an Uncle to prince M.J Momoh).

r) The above contestants rightly subjected themselves to open contest which is the acknowledged and well-known customary procedure for filling a vacant Otaru chieftaincy stool in Auchi.

5. The 3rd -7th Defendants deny paragraph 17 of the statement of claim and in further response, aver that; for the first time, the British colonial administration had to look closely into the question of succession to the throne of Otaru under Auchi customary law due to the issues that arose when Otaru M. J Momoh sought to succeed his father Otaru Momoh Oshiogbele Idao. The inquiry by the then Resident of Benin Province led to the following findings:

- a. There is one ruling House which is the Ikelebe Ruling House.
- b. Any of the sons of a late Otaru is eligible to be an Otaru
- c. No qualified candidate is entitled to any priority claim over the other on grounds of being a son of a particular Otaru or person.
- d. The Otaru must be the candidate presented by the Ikelebe family and if more than one candidate is presented, then the one accepted by Auchi people.
- e. The three candidates were each qualified.

6. At a well-attended gathering of Auchi Chiefs, Elders and Elites/Progressives, the Resident of Benin province called for an election among the contending candidates.

- a. It was at this gathering of Auchi Council of Chiefs and Elders that Prince M. J Momoh was overwhelmingly voted in with 40 votes. He became the 7th Otaru of Auchi thereby succeeding his late father Otaru Momoh Oshiogbele Idao.
- b. Prince Ibrahim Ikharo who contested against Prince M. J Momoh had four (4) votes and Chief kadiri Idao had one (1) vote. The idea of rotation was peacefully defeated by Auchi Council of Chiefs and Elders. The succession of M. J Momoh to the throne of Auchi was guided exclusively by Auchi custom and tradition without the directive or aid of any written enactment.

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- 7. **Otaru Abu Keremi Momoh** was elected as the Otaru of Auchi by elders of Afotsudo kindred to succeed Otaru M.J Momoh in a race that was heavily contested by Ibrahim Ikharo (his cousin), Chief Kadiri Idao (his Uncle) and S. M. J Momoh (his nephew).
- 8. I know and I am aware that there is no dispute between Ikharo family and the 3rd -10th Defendants nor any other party regarding the present method of succession to the stool of Otaru of Auchi. At various time in the past and at present, members of Ikharo family have loyally served Auchi Community under all previous Otaru (from Momoh Oshiogbele Idao to the present Otaru) as turbaned Chiefs, Executive members and members of palace committees. They have at various times loyally executed instructions of all the Otaru aforementioned.
- 9. Chief Osiozekhai the Dania of Afakpologodo in Afotsudo presented Abu Keremi Momoh the Otaru-elect to the **Auchi Clan Council** which was presided over by Chief Musa Itsene the Daudu of Akpekpe because the Daudu of Utsogun, Chief kadiri Idao was one of the contestants and therefore an interested party. Abu Keremi Momoh's nomination was accepted by the Council and subsequently ratified by the government and installed as the 8th Otaru of Auchi on the 8th of November 1955.
- 10. The selection and acceptance of Abu Keremi Momoh by Afotsudo kindred through its elders and the entire Auchi people through the Auchi Clan Council was an exercise guided exclusively by Auchi customary practice.
- 11. The elders of Ikelebe Ruling House do not reckon with rotation in nominating a candidate to fill the vacant stool of Otaru Chieftaincy title. The Defendants aver that at all material time when the stool of Otaru is vacant; all adult male descendants of Ikelebe are eligible to contest for the vacant stool. The most suitable, reputable, popular and preferred candidate is selected among the eligible candidates by the majority of Elders of Ikelebe Ruling House and the other four quarters of Auchi.
- 12. Auchi custom and tradition does not recognize the exclusive right of Ikharo sub-ruling house or any other sub-ruling house to fill a vacant stool of Otaru chieftaincy title at any given time whatsoever.
- 13. All the Sub-Ruling Houses in Ikelebe Ruling House are all entitled to present their nominated candidates who will contest for the vacant stool in an open contest in line with the applicable declaration of customary Law regulating succession to traditional ruler title as contained in the Bendel State Legal Notice of 1979.

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- 14. After the death of Otaru Momoh Oshiogbele Idao in December 1944, the Resident of Benin province made an inquiry into the eligibility of Prince M.J Momoh to contest the vacant stool of Otaru chieftaincy title. Upon his findings that every adult male descendant of Ikelebe ruling house was entitled to vie for the throne, the Resident invited the chiefs and elders of Afotsudo to signal their choice of a new Otaru.
- 15. It was at the gathering mentioned in the paragraph above that the elders of Afotsudo and Auchu Clan Council nominated Prince M.J Momoh as the 7th Otaru of Auchu and thereafter sought the ratification of their nomination from the Resident officer of Benin province.
- 16. Ibrahim Ikharo who is also known as Brai Ikharo contested the stool of Otaru once again and was defeated by Prince Abu Keremi Momoh to become the 8th Otaru of Auchu in an open contest that was guided and regulated by Auchu custom and tradition.
- 17. After the death of Otaru Abu Keremi Momoh in 1970, the claimants nominated A.O Ikharo from their sub ruling house to compete for the throne of Otaru against Prince A.G. Momoh of Idao sub-ruling house in an open contest that saw the defeat of A.O Ikharo. The 1st and 2nd Defendants thereafter ratified the selection of Prince A.G. Momoh as the 9th Otaru of Auchu.
- 18. There was no resultant disputes/crisis in the selection of Otaru in Auchu. The Claimants were neither oppressed nor suppressed, nor were they subjugated by any of the Defendants. The customs and tradition of Auchu were also not contravened at any time whatsoever.
- 19. The Odjugo Commission of inquiry was set up to advise the government on the custom and tradition of succession to the stool of Otaru chieftaincy in Auchu.
- 20. The Odjugo Commission of inquiry carried out deliberations and made enquiries into the method of succession to the stool of Otaru Chieftaincy title, however, some of its recommendations were rejected by the Government. Specifically, the idea of rotation was rejected and the reduction of the number of Sub-Ruling Houses from 4 to 2 was also rejected. The Recommendations of the Odjugo Commission of inquiry which was not accepted by the Government cannot vest the Claimants with a right to any of the relief sought, nor can it be a ground to premise a cause of action.

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21. the report of the Odjugo Commission of inquiry was reviewed by Government, some of the recommendations in the report that were not founded on the evidence led at the hearing of the inquiry was rejected and a white paper was issued on the position of Government. It was after the issuing of a white paper by the then Government of Bendel State that staff of office was presented to Alhaji A.G Momoh as the 9th Otaru of Auchi. The 3rd -7th Defendants shall rely on the following Books and Documents:

- a. Origin and Development of Auchi by Alhaji Chief K.M Seghosime (J.P)
- b. A History of Auchi by Abdulrahman Osioke Arunah.
- c. Document titled Appointment of Alhaji A.G Momoh Ikelebe II as Otaru of Auchi dated 20th September 1973
- d. Minute of Auchi Community Meeting dated 7th May, 1767.

22. The Odjugo report strayed in its recommendation of two (2) sub-ruling houses in place of the customarily recognized four (4) Sub-Ruling Houses. The report of the Commission of inquiry further strayed from the evidence led at the inquiry by recommending rotation of the Otaru chieftaincy title between two of the four sub-ruling houses (i.e., Ikharo and Idao).

23. The Claimants have never been manipulated nor oppressed in any way whatsoever. Parties herein have lived and related harmoniously before, during and after the installation of all Otaru.

24. In 1996 when Otaru A.G Momoh died, the four sub-ruling houses were called upon by the Odion of Usogun Chief U. O Musa to nominate their respective candidates to fill the vacant stool of Otaru of Auchi in line with Auchi custom and tradition pursuant to the Traditional Rulers and Chiefs Edict, 1979 and Bendel state Legal Notice. 133 of 1979.

25. The Claimants' sub-ruling house have participated in all the previous open contest that produced the past and present Otaru of Auchi. The Claimants and their sub-ruling house are precluded by the doctrine of *estoppel by conduct* from filing this action:

Particulars of Estoppel

e. After the demise of Alhaji A.G Momoh, Prince Momodu Ikharo was nominated by the Ikharo sub-ruling house to contest against Prince A.H. Momoh the nominee of Idao sub-ruling house in the customary open contest for the stool of Otaru of Auchi.

f. In a letter dated 7th June 1996 with Ref No IDU/vol.1/96/004, late Alhaji Prince Isa Ikharo who was the Head of the Ikharo branch of Ikelebe

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Ruling House wrote to the chairman of the selection committee of Otaru of Auchi the Odion of Usogun. In the said letter he acknowledged open contest and voting as the customary practice of selecting a successor to the throne of Otaru of Auchi.

- g. In another letter dated 6th June 1996 with Ref No. IDU/vol.1/96/002, M.A Ikharo (secretary) on behalf of the head of the Ikharo family wrote to the Odion of Usogun (in the Odion's capacity as the chairman of the selection committee of Otaru of Auchi) wherein he acknowledged the provisions of Bendel State Legal Notice 133 of 1979 as the extant and binding declaration regulating succession to the stool of Otaru of Auchi.
- h. Sometimes in 1996, the 2nd Defendant in a letter dated 3rd July, 1996 with Ref No CHS. 1/Vol.II/394 requested the Chairman of Etsako West Local Government Auchi among others to furnish the ministry with information in respect of statement from the Kingmakers on the nomination of the Otaru-elect of Auchi.
- i. In response to the 2nd defendant's request above, the Chairman and members of the Selection committee on the Otaru of Auchi (prominent among whom was the eldest member of Ikharo family and the second eldest member of the family acting on behalf of the Claimants) wrote to the Directorate of Local Government and Chieftaincy Affairs confirming the election of the Otaru-elect and the date of his installation and coronation. The 3rd -7th Defendants shall rely on the Etsako west local government covering letter dated 15th July 1996 with Ref no. Pol.31/Vol.III/101 addressed to the commissioner for special duties and the selection committee of Otaru of Auchi's letter dated 6th July 1996 with Ref No. UOM/O of U/08.
- j. In order to ensure that Auchi customs and traditions were effectively carried out and implemented in the selection of the Otaru-elect, the 2nd Defendant wrote another letter dated 23rd July 1996 with Ref no. CHS. 1/Vol. II/402 wherein he instructed the Chairman Etsako west local government Auchi to request the kingmakers of Auchi to furnish the 2nd Defendant among others with a statement confirming that the traditional installation of the Otaru-elect has been duly completed.
- k. In compliance with the 2nd Defendant's directive, the kingmakers/ selection committee of the Otaru of Auchi through the chairman of Etsako west local government forwarded their statement to the Hon. Commissioner for special duties. Therein, the committee stated 'categorically that all requirements of the Chieftaincy Declaration Law

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1979 respecting filling of the vacant stool of Otaru of Auchi have been concluded without any dispute whatsoever'. The 3rd -7th Defendants shall rely on the committee's letter dated 5th August 1996 with Ref no. UOM/O of U/12 signed by all the kingmakers including Alhaji Prince Isa Ikharo the eldest member of the Claimants' family and Prince M.A. Ikharo, the second eldest man in the Claimants' family acting on behalf of the Claimants as their representatives. The 3rd -7th Defendants shall also rely on the Etsako West Local Government Chairman's letter dated 12th August 1996 with Ref no. Pol. 31/Vol. III/115 addressed to the Commissioner for Special Duties.

l. At all material time during the selection of the present Otaru of Auchi, the Claimants' sub ruling house participated fully in the voting process and installation. They also adjudged and declared the process to be free from disputes and in compliance with the extant law regulating succession to the stool of Otaru. The defendants shall rely on the minutes of the meeting of the Auchi selection committee dated Friday 14th June, 1996.

m. At no point in time whatsoever during the last installation exercise had the Claimants sub-ruling house raised the issue of rotation of the stool of Otaru among the four Sub-Ruling Houses.

n. During the selection of the last Otaru of Auchi, the Claimants' Sub-Ruling House through the eldest man/head of the Ikharo family and the secretary to the family i.e., late Alhaji Prince Isa Ikharo and M.A. Ikharo wrote two protest letters to the Odion of Usogun complaining of the date for the selection and the choice of the second oldest man in the Claimants' family. None of the complaint was in protest of the method of selection (i.e., open contest) and neither did they advocate for rotation of the stool nor did they claim any exclusive right to produce the next Otaru of Auchi.

26. Section 3(2) and (3) of the Traditional Ruler and Chieftaincy Law of Bendel State does not apply to succession to Otaru of Auchi Chieftaincy Stool. It is the case of the 3rd -7th Defendants that clause 2 and 4 of the Bendel State legal Notice 133 of 1979 regulating succession to the Otaru of Auchi Chieftaincy title is consistent with the provisions of section 3(4) and 14 of the Bendel state Traditional Rulers and Chieftaincy Law, 1979.

27. After due notice were published requesting the public to make submissions on the issue of succession to the stool of Otaru of Auchi and the findings of the inquiry submitted to government, the declaration in Bendel state legal notice

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DATE

133 was issued in compliance with the Traditional Rulers and Chieftaincy Law to reflect the findings of government on the customary practice of Auchi people as regard succession to the stool of Otaru of Auchi.

- 28. Auchi customs and traditions were fully complied with.
- 29. The 2nd Defendants/Government cannot be compelled to implement the recommendations of the Odjugo Commission of Inquiry whose terms of reference is merely advisory in nature, especially where there is strong evidence that some of the recommendations do not flow from the evidence led at the inquiry.
- 30. The Claimants' claims against the Defendants are baseless, the suit is totally misconceived, frivolous, highly speculative, vexatious and merely calculated to embarrass and annoy the Defendants; and accordingly urges this Honourable Court to dismiss same in its entirety with substantial costs against the Claimants.
- 31. I make this Statement on Oath in good faith believing same to be true and in accordance with the provisions of the extant Oaths Law applicable in Edo State.

[Signature]
 DEPONENT

SWORN to at the High Court Registry,
 Benin City, Edo State
 This 6th Day of Sept, 2019

BEFORE ME

HIGH COURT REGISTRY
 BENIN CITY, EDO STATE
 NIGERIA
 DATE. 6/9/19

[Signature]
 COMMISSIONER FOR OATH
Mr. A. O. Omorogbe
 PRINCIPAL REGISTRAR I
 COMMISSIONER FOR OATHS

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Droiture LP

SIGNATURE

NAME

RANK

DATE

IN THE HIGH COURT OF EDO STATE
IN THE BENIN JUDICIAL DIVISION
HOLDEN AT BENIN CITY

SUIT NO: B/329/2018

BETWEEN

- 1. Mamudu S. B. Ikharo
- 2. Yahaya Ikharo
(For themselves and on behalf of
Ikharo Ruling House of Auchi)

} CLAIMANTS

AND

- 1. Attorney General, Edo State
- 2. Permanent Secretary, Ministry of Local government &
Chieftaincy Affairs, Edo State.
- 3. HRH Alhaji A.H Momoh
(Ikelebe III, The Otaru of Auchi)
- 4. Pa Iliasu Elido Momoh
(Odion of Usogun Village)
- 5. Chief M.G Braimah
(Odion of Akpekpe Village)
- 6. Pa Abdulai Emoabino
(Odion of Aibotse Village)
- 7. Pa Osuma Okhai
(Odion of Igbe/Iyekhei village)
For Themselves and on behalf of Auchi Kingdom
- 8. Pa Yakubu Usman
(For himself and on behalf of Omonofua/Igechi/
Omomo Branch of Ikelebe Ruling House of Auchi)
- 9. Yahaya Mamudu Harrison
(for himself and on behalf of Abikhie
Branch of Ikelebe Ruling House of Auchi)
- 10. Mallam Salami Aliu Idao
(For himself and on behalf of Idao
Branch of Ikelebe Ruling House of Auchi)

} DEFENDANTS

3RD - 7TH DEFENDANTS' WITNESS STATEMENT ON OATH

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I, Musa Adamu, Male, Muslim, Nigerian, Retired Civil Servant and resident of Auchu, Etsako West Local government Area, Edo State, do hereby state on oath as follow:

1. The 1st Claimant is not the head of Ikharo Sub-Ruling House of Ikelebe. Ikharo Sub-Ruling House is not entitled by Auchu custom and tradition to become the next Otaru of Auchu and they are also not so entitled by inheritance.
2. Ikelebe Ruling House is the only Ruling House in Auchu. The stool of Otaru of Auchu Chieftaincy title is **NOT** and **HAS NEVER BEEN** by order of rotation among the Branches or Sub-Ruling Houses of Ikelebe Ruling House.
3. The idea of rotation of the stool of Otaru of Auchu is unknown to Auchu customary practice; it is strange to us. It has no place in the custom and tradition of Auchu and her People.
4. I know as a matter of fact from the oral tradition and history of Auchu kingdom which I know, and from what was narrated to me by elders and historians, and further corroborated by facts narrated to me by my late father Adamu Abudah Idao from the facts he told me he knew personally and those he was told by his father Abudah Idao the son of Otaru Idao the son of Ikelebe; that:
 - a) Succession to the stool of Otaru is by open contest among the nominated/selected and eligible candidates from the four sub-ruling houses i.e.,
 1. Omonufua/Igechi/Omomo,
 2. Idao,
 3. Ikharo and
 4. Abikhiele.
 - b) Auchu custom and tradition does not recognize order of rotation as a method of filling a vacant stool. The order of rotation has never been used nor adopted in the selection of a candidate to fill a vacant stool. And neither was it agreed to be adopted at any time whatsoever in the history of Auchu.
 - c) Ikelebe (the first) was the first Otaru (executive Ruler) of Auchu. He is the son of madam Aneke the daughter of Otsudo the son of Utsogu, the son of Uchi- the progenitor of Auchu people who migrated from Benin.
 - d) Ikelebe reigned as Otaru of Auchu from 1851-1872. He was crowned the first Otaru of Auchu in compensation for the murder of his mother (i.e., Aneke)

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by the Nupe invaders. This peculiar circumstance led the people of Auchi especially Afotsudo kindred (i.e., the Family of Otsudo, the first son of Ustogun, the first son of Uchi- the progenitor of Auchi people) to favour the selection of an adult male child of Aneke as the first Ruler of Auchi.

- e) Otaru Ikelebe had an elder brother called **Onura**. **Onura** was disreputably known and considered to be irresponsible. Due to **Onura's** wayward disposition in life, Ikelebe was preferred by Afotsudo kindred and other quarters of Auchi to lead Auchi as the first Otaru/ruler. He was preferred among his siblings to lead Auchi owing to his good reputation and acceptance/popularity as against his elder brother **Onura**
- f) From time immemorial in Auchi, suitability, reputation and popularity has been the criteria for selection of a candidate (among the contesting candidates from Ikelebe ruling house) to fill the stool of Otaru whenever it becomes vacant.
- g) On the death of Ikelebe in 1872, his uterine brother **Imoudu** (of the same mother but different father) succeeded Ikelebe from 1872-1884. The stool was heavily contested by **Imoudu**, **Omoaka** and Ikelebe's second son- **Idao**. Though, **Omonufua** Otaru Ikelebe's first son survived his father, he was generally considered not suitable to fill the vacant stool. So, the contest was among the three suitable candidates aforementioned.
- h) Otaru **Imoudu** was selected to fill the vacant stool by the elders of Afotsudo because he was considered to be more experienced than his nephew **Idao**. The elders of Afotsudo and Auchi considered **Imoudu** to have been well mentored for the stool of Otaru by his elder brother Otaru Ikelebe who he understudied keenly. **Imoudu** was qualified to fill the vacant stool of Otaru been a member of Otaru Ikelebe's family having been mentored by his elder brother Ikelebe after the death of their mother.
- i) Otaru **Imoudu** was succeeded by his nephew **Idao** the second son of Ikelebe who had earlier contested against him and lost. Otaru **Idao** reigned from 1885-1905. His emergence as the Otaru of Auchi was through a selection process that saw his cousin **Omoaka** contest against him. His choice as the new Otaru of Auchi did not go down well with his cousin **Omoaka**. This led to bitter rivalry between both contestants even after the installation of **Idao** as the 3rd Otaru of Auchi.
- j) After the death of Otaru **Idao** in 1905, **Ikharo** the 3rd son of Ikelebe contested the throne against his own cousin **Odifili** the son of **Aleonote**. Both **Odifili**

and Ikharo were competent, but Odifili was favoured to ascend the stool of Otaru owing to his considered reputation as a fearless warrior.

- k) Otaru Odifili reigned as the 4th Otaru of Auchi for 3 months before he died in 1905 the year he was installed. He was succeeded by **Ikharo** the 3rd son of Otaru Ikelebe as the 5th Otaru of Auchi. Ikharo's emergence as the 5th Otaru was not without a serious contest. His younger brother **Igechi** the son of Ikelebe had put up a serious contest against him. He was favoured to ascend the throne of Otaru primarily due to his elderly disposition, good countenance and experience.
- l) Due to frailty of old age, Otaru Ikharo appointed Momoh Oshiogbele Idao (his nephew- the son of Idao the 3rd Otaru of Auchi) as his *Uko* i.e., representative for all official duties in neighboring towns. Otaru Ikharo reigned from 1905-1919. Upon his death in 1919 his Uko (i.e. representative or deputy) **Momoh Oshiogbele Idao** ascended the throne with wide acceptance from Ikelebe family and the entire Auchi because of his wealth of knowledge, good reputation and popularity. He reigned as the 6th Otaru of Auchi from 1919-1944.
- m) Otaru Ikharo was survived by three (3) younger brothers, i.e., **Ikhafo, Idalu and Abikhiele**. These three sons of Ikelebe couldn't succeed their brother to the throne of their father because the stool of Otaru was not rotated among them (i.e., children of Ikelebe), the order of rotation was unthought of and unknown to Auchi custom and tradition.
- n) The death of Ikharo in 1919 coincides with the advent of British colonial rule in southern Nigeria. With this development, the suitability of a candidate for the stool of Otaru became dependent on his ability to effectively represent and protect the interest of Auchi before the colonial government.
- o) These qualities were found in abundance in Momoh Oshiogbele Idao who as at 1919 communicated effectively in English language and related well with the colonial Government.
- p) Momoh Oshiogbele Idao haven acted on behalf of Otaru Ikharo as a representative of the king outside Auchi at the seat of colonial administration in Idda, Ubiaja, Fugar and other places, he became the most suitable and preferred candidate to fill the vacant stool of Otaru. Momoh Oshiogbele Idao was not nominated by Ikhafo and he was not the oldest grandson of Otaru Ikelebe in 1919 when he ascended the throne.

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q) In 1945 Prince M.J Momoh succeeded his father Otaru Momoh Oshiogbele Idao as the 7th Otaru of Auchi in an open contest that saw the defeat of Ibrahim Ikharo (also known as Brai Ikharo, who is the son of Otaru Ikharo), and Chief Kadiri Idao (also known as Kadiri Chief, an Uncle to prince M.J Momoh).

r) The above contestants rightly subjected themselves to open contest which is the acknowledged and well-known customary procedure for filling a vacant Otaru chieftaincy stool in Auchi.

5. The 3rd -7th Defendants deny paragraph 17 of the statement of claim and in further response, aver that; for the first time, the British colonial administration had to look closely into the question of succession to the throne of Otaru under Auchi customary law due to the issues that arose when Otaru M. J Momoh sought to succeed his father Otaru Momoh Oshiogbele Idao. The inquiry by the then Resident of Benin Province led to the following findings:

- a. There is one ruling House which is the Ikelebe Ruling House.
- b. Any of the sons of a late Otaru is eligible to be an Otaru
- c. No qualified candidate is entitled to any priority claim over the other on grounds of being a son of a particular Otaru or person.
- d. The Otaru must be the candidate presented by the Ikelebe family and if more than one candidate is presented, then the one accepted by Auchi people.
- e. The three candidates were each qualified.

6. At a well-attended gathering of Auchi Chiefs, Elders and Elites/Progressives, the Resident of Benin province called for an election among the contending candidates.

- a. It was at this gathering of Auchi Council of Chiefs and Elders that Prince M. J Momoh was overwhelmingly voted in with 40 votes. He became the 7th Otaru of Auchi thereby succeeding his late father Otaru Momoh Oshiogbele Idao.
- b. Prince Ibrahim Ikharo who contested against Prince M. J Momoh had four (4) votes and Chief kadiri Idao had one (1) vote. The idea of rotation was peacefully defeated by Auchi Council of Chiefs and Elders. The succession of M. J Momoh to the throne of Auchi was guided exclusively by Auchi custom and tradition without the directive or aid of any written enactment.

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- 7. **Otaru Abu Keremi Momoh** was elected as the Otaru of Auchi by elders of Afotsudo kindred to succeed Otaru M.J Momoh in a race that was heavily contested by Ibrahim Ikharo (his cousin), Chief Kadiri Idao (his Uncle) and S. M. J Momoh (his nephew).
- 8. I know and I am aware that there is no dispute between Ikharo family and the 3rd -10th Defendants nor any other party regarding the present method of succession to the stool of Otaru of Auchi. At various time in the past and at present, members of Ikharo family have loyally served Auchi Community under all previous Otaru (from Momoh Oshiogbele Idao to the present Otaru) as turbaned Chiefs, Executive members and members of palace committees. They have at various times loyally executed instructions of all the Otaru aforementioned.
- 9. Chief Osiozekhai the Dania of Afakpologodo in Afotsudo presented Abu Keremi Momoh the Otaru-elect to the **Auchi Clan Council** which was presided over by Chief Musa Itsene the Daudu of Akpekpe because the Daudu of Utsogun, Chief kadiri Idao was one of the contestants and therefore an interested party. Abu Keremi Momoh's nomination was accepted by the Council and subsequently ratified by the government and installed as the 8th Otaru of Auchi on the 8th of November 1955.
- 10. The selection and acceptance of Abu Keremi Momoh by Afotsudo kindred through its elders and the entire Auchi people through the Auchi Clan Council was an exercise guided exclusively by Auchi customary practice.
- 11. The elders of Ikelebe Ruling House do not reckon with rotation in nominating a candidate to fill the vacant stool of Otaru Chieftaincy title. The Defendants aver that at all material time when the stool of Otaru is vacant; all adult male descendants of Ikelebe are eligible to contest for the vacant stool. The most suitable, reputable, popular and preferred candidate is selected among the eligible candidates by the majority of Elders of Ikelebe Ruling House and the other four quarters of Auchi.
- 12. Auchi custom and tradition does not recognize the exclusive right of Ikharo sub-ruling house or any other sub-ruling house to fill a vacant stool of Otaru chieftaincy title at any given time whatsoever.
- 13. All the Sub-Ruling Houses in Ikelebe Ruling House are all entitled to present their nominated candidates who will contest for the vacant stool in an open contest in line with the applicable declaration of customary Law regulating

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succession to traditional ruler title as contained in the Bendel State Legal Notice of 1979.

- 14. After the death of Otaru Momoh Oshiogbele Idao in December 1944, the Resident of Benin province made an inquiry into the eligibility of Prince M.J Momoh to contest the vacant stool of Otaru chieftaincy title. Upon his findings that every adult male descendant of Ikelebe ruling house was entitled to vie for the throne, the Resident invited the chiefs and elders of Afotsudo to signal their choice of a new Otaru.
- 15. It was at the gathering mentioned in the paragraph above that the elders of Afotsudo and Auchi Clan Council nominated Prince M.J Momoh as the 7th Otaru of Auchi and thereafter sought the ratification of their nomination from the Resident officer of Benin province.
- 16. Ibrahim Ikharo who is also known as Brai Ikharo contested the stool of Otaru once again and was defeated by Prince Abu Keremi Momoh to become the 8th Otaru of Auchi in an open contest that was guided and regulated by Auchi custom and tradition.
- 17. After the death of Otaru Abu Keremi Momoh in 1970, the claimants nominated A.O Ikharo from their sub ruling house to compete for the throne of Otaru against Prince A.G. Momoh of Idao sub-ruling house in an open contest that saw the defeat of A.O Ikharo. The 1st and 2nd Defendants thereafter ratified the selection of Prince A.G. Momoh as the 9th Otaru of Auchi.
- 18. There was no resultant disputes/crisis in the selection of Otaru in Auchi. The Claimants were neither oppressed nor suppressed, nor were they subjugated by any of the Defendants. The customs and tradition of Auchi were also not contravened at any time whatsoever.
- 19. The Odjugo Commission of inquiry was set up to advise the government on the custom and tradition of succession to the stool of Otaru chieftaincy in Auchi.
- 20. The Odjugo Commission of inquiry carried out deliberations and made enquiries into the method of succession to the stool of Otaru Chieftaincy title, however, some of its recommendations were rejected by the Government. Specifically, the idea of rotation was rejected and the reduction of the number of Sub-Ruling Houses from 4 to 2 was also rejected. The Recommendations of the Odjugo Commission of inquiry which was not accepted by the Government

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cannot vest the Claimants with a right to any of the relief sought, nor can it be a ground to premise a cause of action.

21. It is not true that Government did not take any decision on the report. the report of the Odjugo Commission of inquiry was reviewed by Government, some of the recommendations in the report that were not founded on the evidence led at the hearing of the inquiry was rejected and a white paper was issued on the position of Government. It was after the issuing of a white paper by the then Government of Bendel State that staff of office was presented to Alhaji A.G Momoh as the 9th Otaru of Auchi. I shall rely on the following Books and Documents:

- a. Origin and Development of Auchi by Alhaji Chief K.M Seghosime (J.P)
- b. A History of Auchi by Abdulrahman Osioke Arunah.
- c. Document titled Appointment of Alhaji A.G Momoh Ikelebe II as Otaru of Auchi dated 20th September 1973
- d. Minute of Auchi Community Meeting dated 7th May, 1767.

22. The Odjugo report strayed in its recommendation of two (2) sub-ruling houses in place of the customarily recognized four (4) Sub-Ruling Houses. The report of the Commission of inquiry further strayed from the evidence led at the inquiry by recommending rotation of the Otaru chieftaincy title between two of the four sub-ruling houses (i.e., Ikharo and Idao).

23. The Claimants have never been manipulated nor oppressed in any way whatsoever. Parties herein have lived and related harmoniously before, during and after the installation of all Otaru.

24. In 1996 when Otaru A.G Momoh died, the four sub-ruling houses were called upon by the Odion of Usogun Chief U. O Musa to nominate their respective candidates to fill the vacant stool of Otaru of Auchi in line with Auchi custom and tradition pursuant to the Traditional Rulers and Chiefs Edict, 1979 and Bendel state Legal Notice. 133 of 1979.

25. The Claimants' sub-ruling house have participated in all the previous open contest that produced the past and present Otaru of Auchi. The Claimants and their sub-ruling house are precluded by the doctrine of *estoppel by conduct* from filing this action:

Particulars of Estoppel

- e. After the demise of Alhaji A.G Momoh, Prince Momodu Ikharo was nominated by the Ikharo sub-ruling house to contest against Prince A.H.

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Momoh the nominee of Idao sub-ruling house in the customary open contest for the stool of Otaru of Auchi.

- f. In a letter dated 7th June 1996 with Ref No IDU/vol.1/96/004, late Alhaji Prince Isa Ikharo who was the Head of the Ikharo branch of Ikelebe Ruling House wrote to the chairman of the selection committee of Otaru of Auchi the Odion of Usogun. In the said letter he acknowledged open contest and voting as the customary practice of selecting a successor to the throne of Otaru of Auchi.
- g. In another letter dated 6th June 1996 with Ref No. IDU/vol.1/96/002, M.A Ikharo (secretary) on behalf of the head of the Ikharo family wrote to the Odion of Usogun (in the Odion's capacity as the chairman of the selection committee of Otaru of Auchi) wherein he acknowledged the provisions of Bendel State Legal Notice 133 of 1979 as the extant and binding declaration regulating succession to the stool of Otaru of Auchi.
- h. Sometimes in 1996, the 2nd Defendant in a letter dated 3rd July, 1996 with Ref No CHS. 1/Vol.II/394 requested the Chairman of Etsako West Local Government Auchi among others to furnish the ministry with information in respect of statement from the Kingmakers on the nomination of the Otaru-elect of Auchi.
- i. In response to the 2nd defendant's request above, the Chairman and members of the Selection committee on the Otaru of Auchi (prominent among whom was the eldest member of Ikharo family and the second eldest member of the family acting on behalf of the Claimants) wrote to the Directorate of Local Government and Chieftaincy Affairs confirming the election of the Otaru-elect and the date of his installation and coronation. The 3rd -7th Defendants shall rely on the Etsako west local government covering letter dated 15th July 1996 with Ref no. Pol.31/Vol.III/101 addressed to the commissioner for special duties and the selection committee of Otaru of Auchi's letter dated 6th July 1996 with Ref No. UOM/O of U/08.
- j. In order to ensure that Auchi customs and traditions were effectively carried out and implemented in the selection of the Otaru-elect, the 2nd Defendant wrote another letter dated 23rd July 1996 with Ref no. CHS. 1/Vol. II/402 wherein he instructed the Chairman Etsako west local government Auchi to request the kingmakers of Auchi to furnish the 2nd Defendant among others with a statement confirming that the traditional installation of the Otaru-elect has been duly completed.

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- k. In compliance with the 2nd Defendant's directive, the kingmakers/ selection committee of the Otaru of Auchi through the chairman of Etsako west local government forwarded their statement to the Hon. Commissioner for special duties. Therein, the committee stated 'categorically that all requirements of the Chieftaincy Declaration Law 1979 respecting filling of the vacant stool of Otaru of Auchi have been concluded without any dispute whatsoever'. The 3rd -7th Defendants shall rely on the committee's letter dated 5th August 1996 with Ref no. UOM/O of U/12 signed by all the kingmakers including Alhaji Prince Isa Ikharo the eldest member of the Claimants' family and Prince M.A. Ikharo, the second eldest man in the Claimants' family acting on behalf of the Claimants as their representatives. The 3rd -7th Defendants shall also rely on the Etsako West Local Government Chairman's letter dated 12th August 1996 with Ref no. Pol. 31/Vol. III/115 addressed to the Commissioner for Special Duties.

- l. At all material time during the selection of the present Otaru of Auchi, the Claimants' sub ruling house participated fully in the voting process and installation. They also adjudged and declared the process to be free from disputes and in compliance with the extant law regulating succession to the stool of Otaru. The defendants shall rely on the minutes of the meeting of the Auchi selection committee dated Friday 14th June, 1996.

- m. At no point in time whatsoever during the last installation exercise had the Claimants sub-ruling house raised the issue of rotation of the stool of Otaru among the four Sub-Ruling Houses.

- n. During the selection of the last Otaru of Auchi, the Claimants' Sub-Ruling House through the eldest man/head of the Ikharo family and the secretary to the family i.e., late Alhaji Prince Isa Ikharo and M.A. Ikharo wrote two protest letters to the Odion of Usogun complaining of the date for the selection and the choice of the second oldest man in the Claimants' family. None of the complaint was in protest of the method of selection (i.e., open contest) and neither did they advocate for rotation of the stool nor did they claim any exclusive right to produce the next Otaru of Auchi.

26. Section 3(2) and (3) of the Traditional Ruler and Chieftaincy Law of Bendel State does not apply to succession to Otaru of Auchi Chieftaincy Stool. It is the case of the 3rd -7th Defendants that clause 2 and 4 of the Bendel State legal Notice

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133 of 1979 regulating succession to the Otaru of Auchi Chieftaincy title is consistent with the provisions of section 3(4) and 14 of the Bendel state Traditional Rulers and Chieftaincy Law, 1979.

27. After due notice were published requesting the public to make submissions on the issue of succession to the stool of Otaru of Auchi and the findings of the inquiry submitted to government, the declaration in Bendel state legal notice 133 was issued in compliance with the Traditional Rulers and Chieftaincy Law to reflect the findings of government on the customary practice of Auchi people as regard succession to the stool of Otaru of Auchi.

28. Auchi customs and traditions were fully complied with.

29. The 2nd Defendants/Government cannot be compelled to implement the recommendations of the Odjugo Commission of Inquiry whose terms of reference is merely advisory in nature, especially where there is strong evidence that some of the recommendations do not flow from the evidence led at the inquiry.

30. The Claimants' claims against the Defendants are baseless, the suit is totally misconceived, frivolous, highly speculative, vexatious and merely calculated to embarrass and annoy the Defendants; and accordingly urges this Honourable Court to dismiss same in its entirety with substantial costs against the Claimants.

31. I make this Statement on Oath in good faith believing same to be true and in accordance with the provisions of the extant Oaths Law applicable in Edo State.

DEPONENT

SWORN to at the High Court Registry,

Benin City, Edo State.

This 6th Day of Sept, 2019

BEFORE ME

HIGH COURT REGISTRY
BENIN CITY, EDO STATE
NIGERIA
DATE: 6/9/19

COMMISSIONER FOR OATHS
Mr. A. O. Omoregba
PRINCIPAL REGISTRAR I
COMMISSIONER FOR OATHS

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IN THE HIGH COURT OF EDO STATE
IN THE BENIN JUDICIAL DIVISION
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SUIT NO: B/329/2018

BETWEEN

- 1. Mamudu S. B. Ikharo
- 2. Yahaya Ikharo
(For themselves and on behalf of
Ikharo Ruling House of Auchi)

} CLAIMANTS

AND

- 1. Attorney General, Edo State
- 2. Permanent Secretary, Ministry of Local government &
Chieftaincy Affairs, Edo State.
- 3. HRH Alhaji A.H Momoh
(Ikelebe III, The Otaru of Auchi)
- 4. Pa Iliasu Elido Momoh
(Odion of Usogun Village)
- 5. Chief M.G Braimah
(Odion of Akpekpe Village)
- 6. Pa Abdulai Emoabino
(Odion of Aibotse Village)
- 7. Pa Osuma Okhai
(Odion of Igbe/Iyekhei village)
For Themselves and on behalf of Auchi Kingdom
- 8. Pa Yakubu Usman
(For himself and on behalf of Omonofua/Igechi/
Omomo Branch of Ikelebe Ruling House of Auchi)
- 9. Yahaya Mamudu Harrison
(for himself and on behalf of Abikhiele
Branch of Ikelebe Ruling House of Auchi)
- 10. Mallam Salami Aliu Idao
(For himself and on behalf of Idao
Branch of Ikelebe Ruling House of Auchi)

DEFENDANTS

3RD - 7TH DEFENDANTS' LIST OF DOCUMENTS TO BE RELIED UPON

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- a. Etsako west local government covering letter dated 15th July 1996 with Ref no. Pol.31/Vol.III/101 addressed to the commissioner for special duties
- b. Selection Committee of Otaru's letter dated 6th July 1996 with Ref No. UOM/O of U/08.
- c. Letter dated 3rd July, 1996 with Ref No CHS. 1/Vol.II/394
- d. Letter dated 6th June 1996 with Ref No. IDU/vol.1/96/002,
- e. Letter/Summons dated 4th June, 1996
- f. Letter dated 8th June 1996
- g. Letter dated 7th June 1996 with Ref No IDU/vol.1/96/004
- h. Letter dated 6th July, 1996
- i. Letter dated 23rd July 1996 with Ref no. CHS. 1/Vol. II/402
- j. Letter dated 5th August 1996 with Ref no. UOM/O of U/12
- k. Letter dated 12th August 1996 with Ref no. Pol. 31/Vol. III/115
- l. Minutes of the meeting of the Auchi selection committee dated Friday 14th June, 1996.
- m. Origin and Development of Auchi by Alhaji Chief K.M Seghosime (J.P)
- n. A History of Auchi by Abdulrahman Osioke Arunah.
- o. Document titled Appointment of Alhaji A.G Momoh Ikelebe II as Otaru of Auchi dated 20th September 1973
- p. Minute of Auchi Community Meeting dated 7th May, 1767.

Dated 5th day of September, 2019

✓ Salman Yaqoob Dako
 Sunday Iyemeake
Solicitors to the 3rd -7th Defendants
Droiture Legal Practice
 Flat 2, Plot 1692, Ilesha Close,
 Area 3, Garki, Abuja.
 08061110944,
 Email: droiturelp@outlook.com

Whose Address for Service **Within Jurisdiction is:**
 c/o Collective Reliance Associates,
 No. 1, Beside Arafat Mosque, Auchi.

For Service on:
1. The Claimants
 c/o their Solicitors.
 Dan Ose Okoh, Esq SAN
 Dan Ose Okoh (SAN) & Co

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Okoh Law House,
29B, Isiuwa Street, Off Dawson Road,
Benin City.

2. The 1st and 2nd Defendants'

Ministry of Justice,
Ezoti Road, Benin City,
08056736664

3. The 8th Defendant

c/o Pa Yakubu Usman
Utsogun quarters, Auchi, Edo State

4. The 9th Defendant

c/o their Counsel
Jatto Topa Esq,
14, Aimure Avenue, Off Ihama Road.
GRA, Benin City.
Jattotopa1@gmail.com 08068743224

5. The 10th Defendant

c/o their Counsel
Daud Momodu Esq
Daud Momodu & Co
12, Warrake Road,
Auchi.

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Telephone



-96-

DIRECTORATE OF LOCAL GOVERNMENT AND CHIEFTAINCY AFFAIRS
P. M. B. 1067
BENIN CITY
EDO STATE OF NIGERIA

Your Ref

Our Refl No. CHS. 1/Vol. II/394

3rd July, 1996

The Chairman,
Etsako West Local Government,
Auchi.

FILLING OF THE VACANT TRADITIONAL RULER STOOL
OF THE OTARU OF AUCHI IN ETSAKO WEST LOCAL
GOVERNMENT AREA.

I am directed to refer to your letter No. POL. 31/VOL. III/86 of 25th June, 1996 on the above-mentioned subject and to ask you to request the Kingmakers of Auchi to furnish this office with the original statement of the passing away of the last Otaru of Auchi stating clearly the date (viz day/month/year) of his passing away.

2. In addition, the Kingmakers are also requested to furnish the following additional information in respect of the Statement of the nomination of the Otaru-elect of Auchi;

- (i) the full names of the last Otaru;
- (ii) the Branch of the Ikelebe Ruling House he hailed from;
- (iii) the date (day/month/year) he passed away;
- (iv) a confirmation that the burial rites and ceremonies in respect of the last Otaru have been duly performed and completed in accordance with Auchi tradition and custom;
- (v) the date (day/month/year) of the traditional installation of the Otaru-elect of Auchi.

3. I wish to say that it is the original copies of these documents

CERTIFIED TRUE COPY

SIGNATURE

NAME

RANK

DATE

goodself, the Chairman, Etsako West Local Government. In forwarding these papers, you should also confirm that the traditional installation of the Otaru-elect is free from dispute.

4. Kindly treat as very urgent.

AMini
(C. I. Ikhine),
for: Hon. Commissioner for Special Duties.

① M. take action without delay.
[Signature]
S-L-G
4/7/96

PPAT
Endorse this letter to CPM, Otaru
Selection Committee, Auchi for
his early action, please.
[Signature]
4/7/96

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DATE.....

78
EDO STATE

DIRECTORATE OF LOCAL GOVERNMENT AND CHIEFTAINCY AFFAIRS
P.M.B. 1067
BENIN CITY
EDO STATE OF NIGERIA

Your Ref:

Our Ref: No. CHS.1/Vol. II/394

3rd July, 1996

The Chairman,
Etsako West Local Government,
Auchi.

FILLING OF THE VACANT TRADITIONAL RULER STOOL
OF THE OTARU OF AUCHI IN ETSAKO WEST LOCAL
GOVERNMENT AREA.

I am directed to refer to your letter No. POL.31/VOL. III/86 of 25th June, 1996 on the above-mentioned subject and to ask you to request the Kingmakers of Auchi to furnish this office with the original statement of the passing away of the last Otaru of Auchi stating clearly the date (viz day/month/year) of his passing away.

2. In addition, the Kingmakers are also requested to furnish the following additional information in respect of the Statement of the nomination of the Otaru-elect of Auchi;

- (i) the full names of the last Otaru;
- (ii) the branch of the Ikelebe Ruling House he hailed from;
- (iii) the date (day/month/year) he passed away;
- (iv) a confirmation that the burial rites and ceremonies in respect of the last Otaru have been duly performed and completed in accordance with Auchi tradition and custom;
- (v) the date (day/month/year) of the traditional installation of the Otaru-elect of Auchi.

3. I wish to say that it is the original copies of these documents that should be forwarded and routed through your goodself, the Chairman, Etsako West Local Government. In forwarding these papers, you should also confirm that the traditional installation of the Otaru-elect is free from dispute.

4. Kindly treat as very urgent.

Sgd.
(C. I. Ikhine),
for: Hon. Commissioner for Special Duties.

CERTIFIED TRUE COPY

SIGNATURE.....

NAME.....

DATE.....

DATE.....

Our Ref: No. POL.31/VOL.III/98
Etsako West Local Government,
Auchi.

4th July, 1996.

Copy to:-
Chief Umoru Oshiozekhai Musa,
Chairman,
Selection Committee,
Auchi.

Overleaf for your information and early action, please.

(Signature)
(C. O. Audu),
for: Chairman,
Etsako West Local Government,
Auchi.

Stamp: POL. 31 VOL. III
4.17.96
(Signature)

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SIGNATURE.....
NAME.....
TITLE.....

83 * ✓

CHIEF OF DOMESTIC OBLIGATIONS MUSA
UTSOGUN QTRS,
AUCHI.

Ref No: UOM/OofU/01

Date: 8th June, 1996.

To, Ikkhoro Branch
Ikklebe Ruling House,
Usogun Qtrs,
Auchi.

RE: SELECTION OF A CANDIDATE TO THE STOOL OF OTARUSHIP OF AUCHI

Your letter of 7th June 1996 Ref No. IDU/VOL.1/96/001 tried to question my authority on why I did not invite the ^{four} four Ruling Houses for a discussion. I would wish to draw your attention to page E 188 of The Traditional Rulers and Chiefs Edict of 1979, paragraph 4 and to make you understand that I am following the orders spelt out therein meticulously. And that instead of 14 days to the day of selection, I have given you in all, 22 days to do your home work effectively and thoroughly.

I have no obligation under the Edict to call a meeting to discuss the modalities of procedure of the selection, outside the stipulations contained in the Edict.

I came across two letters purportedly addressed to me of which I have not received from you. In one of the letters, you have contested the Seniority of Alhaji Usoro Ikkhoro. I do not wish to doubt the genuineness of your case and so, your two most Senior Princes indicated in your letter should present themselves at the Selection Committee meeting scheduled for 14th June 1996. The date is agreeable to the three other Edicts and the other Ikklebe Ruling Sub-houses.

I have received your nomination in response to my Letter Ref: UOM/OofU/01 of invitation to the succession to the Otaruship, for the candidateship to the stool. Since you have sent in your nominee, like all others, I do not see any good reason for your complaints.

You may wish to know that I have informed the appropriate authorities of Government who would provide facilities as suggested in your paragraph 4 of your letter under reference.

Finally, I sincerely wish to implore you to co-operate fully and meaningfully with me in the course of this exercise, as history shall stand to vindicate our action/activities.

God bless.
Yours very sincerely,

Handwritten signature

Alhaji Chief U. O. Musa,
The Qdion of Utsogun Qtrs,
Auchi.

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SIGNATURE

NAME

DATE

DATE

✓ 340

Your ref: No. 120/Y.L.1/96/002
Your ref: No. UOM/O of 6/02

73

6th June, 1996

P. O. Box 20,
Unogun Village,
Auchi.

The Odion of Unogun,
Chairman of Selection Committee,
Garu of Auchi,
Auchi.

Sir,

MEETING OF THE COMMITTEE TO SELECT THE GARU OF AUCHI

I am directed to acknowledge the receipt of your letter ref: no. 120/Y.L.1/96/002 dated the 4th of June, 1996 and to correct a wrong selection of one of the two most senior princes from Ikhare branch of Ikaebe ruling house. The Head of the family believes that you ought to have consulted him before the selection of the two most senior Princes in the Ikhare ruling house before reflecting them in your record.

The 1979 Gazette stipulates that it is the first two most senior Princes under the seniority order that are qualified to be members of the selection committee. This is to ensure that no discrimination and victimisation.

You have erroneously selected Chief Prince Alhaji Usoru Abu Ikhare as the second senior Prince setting aside his senior in the ruling house who is Prince Salio Ikhare.

On the basis of this, I am further directed to inform you that the two most senior Princes in Ikhare ruling house qualified to be members of the selection committee are:-

1. Prince Alhaji Isa Ikhare
2. Prince Salio Ikhare.

The Head of the Ikhare Family therefore directs that you should reflect the above two names in your record as members of the selection committee, Please.

It is hoped that you will correct this anomaly as early as it deserves.

Thanks.

Yours faithfully,

M. A. Ikhare

M. A. Ikhare
Secretary
On behalf of the Head
of the family.

SPO
PPA (51)
Pl. n

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COPY TO:

- 1. The Odion Of Akpeke, Alhaji Mallam Braimah Ogono.
- 2. The Odion of Abotse, Alhaji Mallam Momodu Beture Abudulai.
- 3. The Odion of Iyekhei/Igbei Alhaji Aliu Dirisu Eleghismeh
- 4. The Chairman, Etsako West Local Government Area, Auchi.
- 5. The Secretary, Etsako West Local Government Area, Auchi.
- 6. The Chairman, Etsako West Local Government Area, Traditions Rulers Council.
- 7. The Secretary, Etsako West Local Government Area, Rulers Council.

COPY TO:

- 1. The Odion Of Akpeke, Alhaji Mallam Braimah Ogono.
- 2. The Odion of Abotse, Alhaji Mallam Momodu Beture Abudulai.
- 3. The Odion of Iyekhei/Igbei Alhaji Aliu Dirisu Eleghismeh
- 4. The Chairman, Etsako West Local Government Area, Auchi.
- 5. The Secretary, Etsako West Local Government Area, Auchi.
- 6. The Chairman, Etsako West Local Government Area, Traditions Rulers Council.
- 7. The Secretary, Etsako West Local Government Area, Rulers Council.

Yours faithfully,

M. A. Ikbaro

M. A. Ikbaro
Secretary,
On behalf of the Head of the family.

COPY TO:

- 1. The Odion Of Akpeke, Alhaji Mallam Braimah Ogono.
- 2. The Odion of Abotse, Alhaji Mallam Momodu Beture Abudulai.
- 3. The Odion of Iyekhei/Igbei Alhaji Aliu Dirisu Eleghismeh
- 4. The Chairman, Etsako West Local Government Area, Auchi.
- 5. The Secretary, Etsako West Local Government Area, Auchi.
- 6. The Chairman, Etsako West Local Government Area, Traditions Rulers Council.
- 7. The Secretary, Etsako West Local Government Area, Rulers Council.

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SIGNATURE: _____

NAME: _____

DATE: _____

TIME: _____

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CHIEF UMORU OSHIOZEKHAI MUSA
IYETSI QUARTERS
AUCHI.

Ref No: UOM/OoFU/02

Date: 4th June, 1996.

COMMITTEE FOR THE
SELECTION OF SUCCEEDING
OTARU OF AUCHI.

SUMMONS.

MEETING OF THE COMMITTEE TO
SELECT THE OTARU OF AUCHI.

I, Alhaji Chief Umoru Oshiozekhai Musa, The ODION of USOGUN and CHAIRMAN OF THE SELECTION COMMITTEE having reviewed nomination for the vacant post of the Otaru of Auchi, hereby SUMMON all members of the Committee to select the next Otaru of Auchi from the candidates presented. This is by virtue of the powers conferred on me by paragraph 4 of the STATE GOVERNMENT DECLARATION MADE UNDER SECTION 8 OF THE TRADITIONAL RULERS AND CHIEFS EDICT No. 155 OF 1979 STATING THE CUSTOMARY LAW REGULATING SUCCESSION TO THE TITLE OF OTARU OF AUCHI.

VENUE OF MEETING: Council Hall Auchi.
DATE: FRIDAY 14th June, 1996.
TIME: 9.30 a.m.

[Signature]
Alhaji Chief U. O. Musa,
Chairman Selection Committee.

NOTICE TO:

- A. FOR IKWILIBI RULING HOUSE.
 - 1. Two Eldest members of Omonofua/Igechi/Omomo Branch.
 - ✓(a) Chief Braimah Kadiri
 - ✓(b) Alhaji Dirisu Igiekhume
 - 2. Two Eldest members of IDAO Branch.
 - ✓(a) Alhaji Prince B.D.T. Momoh
 - ✓(b) Alhaji Prince ^{Abdullah} Chief Kadiri
 - 3. Two Eldest members of IKHARO Branch.
 - ✓(a) Alhaji Prince Isa Ikharo
 - ✓(b) Alhaji Chief Umoru Abu Ikharo *Prince Sahis Ikharo*
 - 4. Two Eldest members of ABIKHIELE Branch.
 - ✓(a) Alhaji Prince Osama Abikhiele
 - ✓(b) Alhaji Chief Yerima Abikhiele
- B. EDIONE OF FOUR VILLAGES IN AUCHI.
 - ✓1. The Odion of Usogun
Chief U. O. Musa (Chairman SELECTION COMMITTEE).
 - 2. The Odion of AKPEREE
Alhaji Mallam Braimah Ogona - (Member).

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- 3. The Odion of AIBOTSE.
- ✓ Alhaji Mallam Momodu Beture Abdulai - (Member).

- ✓ 4. The Odion of IGBE/IYKKEHI.
- Alhaji Aliu Dirisu Dieghiamah - (Member).

C. LOCAL GOVERNMENT OFFICIALS
IN ATTENDANCE:

- 1. The Chairman, Etsako West Local Government Area Auchi.
- ✓ 2. The Secretary, Etsako West Local Government Area Auchi.
- 3. The Chairman, Etsako West Local Government Traditional Rulers Council Auchi.
- 4. The Secretary, Etsako West Local Government Traditional Rulers Council Auchi.

Above is for your information and necessary action please.

U. G. Musa
Alhaji U. G. Musa,
Chairman
(Selection Committee).

SPO
PPA II, You please attend on for the St G for this
exercise as he will be away on the
burial of his late mother. PA read the
Provisional Chief Law of 1979 - Edict
No 16 to am ourselves for the exercise
U. G. Musa
5/6/96

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NAME.....

RANK.....

DATE.....

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344

CHIEF OF DISTRICT URSHIOZAKHAI MUSA
TYPING CLERK
AUCHI.

Ref No: URM/OcRU/02
COMMITTEE FOR THE
SELECTION OF SUCCEEDING
CHIEF OF AUCHI.

Date: 4th June, 1996.

SUMMONS.

MEETING OF THE COMMITTEE TO
SELECT THE CHIEF OF AUCHI.

I, Alhaji Chief Umaru Oshiozakhai Musa the CHIEF of URSOON and
CHAIRMAN OF THE SELECTION COMMITTEE having reviewed nomination for
the vacant post of the Chief of Auchi, hereby SUMMON all members of
the Committee to select the next Chief of Auchi from the candidates
presented. This is by virtue of the powers conferred on me by paragraph
4 of the STATE GOVERNMENT DECLARATION MADE UNDER SECTION 8 OF THE
TRADITIONAL RULERS AND CHIEFS ACT No. 135 OF 1979 STATING THE
CUSTOMARY LAW REGULATING SUCCESSION TO THE TITLE OF CHIEF OF AUCHI.

VENUE OF MEETING: Council Hall Auchi.
DATE: FRIDAY 14th June, 1996.
TIME: 9:30 a.m.

[Signature]
Alhaji Chief U. O. Musa,
Chairman Selection Committee.

NOTICE TO:

1. FOR TWENTY-NINE VILLAGE HEADS.
 1. Two Elders members of Omonofa/Itachi/Omomo Branch.
 - (a) Chief Braimah Kadiri
 - (b) Alhaji Darius Igiakuma
 2. Two Elders members of IDAO Branch.
 - (a) Alhaji Prince B.D.T. Momoh
 - (b) Alhaji Prince ^{Abdullah} Chief Kadiri
 3. Two Elders members of IKHARO Branch.
 - (a) Alhaji Prince Isa Icharo
 - (b) Alhaji Chief Umaru Abu Icharo
 4. Two Elders members of AMIKHARU Branch.
 - (a) Alhaji Prince Osuma Abikhielo
 - (b) Alhaji Chief Kexima Abikhielo
- B. MEMBERS OF FOUR VILLAGES IN AUCHI.
 1. The Chief of Ursoun
Chief U. O. Musa (Chairman SELECTION COMMITTEE).
 2. The Chief of AKPEPPO
Alhaji Mallam Braimah Osono - (Member).

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- 3. The Union of AROVSA,
Alhaji Mallam Momodu Doturo Abdulai - (Member).
- 4. The Union of IGHE/IYSEHET,
Alhaji Aliu Birisan Elaghiemah - (Member).

2. LOCAL GOVERNMENT OFFICIALS
IN ATTENDANCE:

- ✓ 1. The Chairman, Nsoako West Local Government Area Auchi.
- 2. The Secretary, Nsoako West Local Government Area Auchi.
- 3. The Chairman, Nsoako West Local Government Traditional Rulers Council Auchi.
- 4. The Secretary, Nsoako West Local Government Traditional Rulers Council Auchi.

Above is for your information and necessary action please.

[Signature]
Alhaji U. O. Nwaka,
Chairman
(Selection Committee).

File
action completed pl
[Signature]
25/7/96

Nwaka
[Signature]
25/7/96

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**ETSAKO WEST LOCAL GOVERNMENT
AUCHI
P. M. B. 0012 AUCHI,
EDO STATE OF NIGERIA**

Our Ref: No. POL. 31/Vol. III/86.

25th June, 19 96

Your Ref:

The Commissioner for Special Duties,
Military Administrator's Office,
Directorate of Local Government and
Chieftaincy Affairs,
Chieftaincy Affairs Department,
Benin City.

Selection of Alhaji Prince Highbred Aliru
Momoh as the Otaru of Auchi:

I am directed to forward herewith letter Ref. No. OUM/
O & M/05 of 19th June, 1996 from Alhaji Chief U.O. Musa the
Odion of Usogun and Chairman of Selection Committee and others
on the above subject matter for your necessary action.

2. The procedure for the filling of the vacant Traditional
Ruler Title of Otaru of Auchi started in accordance with the
declaration of customary law regulating succession to the stool
shortly after the demise of the last incumbent, HRH. Alhaji
A. G. Momoh (JP) Ikelebe II. Prince Highbred Aliru Momoh was
selected as Otaru of Auchi at the meeting of the Selection
Committee held on Friday 14th June, 1996. Attached herewith
is an affidavit sworn to by the Otaru-elect deposing his suit-
ability for appointment to the Traditional Ruler Title of Otaru
of Auchi.

3. The meeting was attended by all the members of the
Selection Committee and was monitored by the Chairman of Etsako
West Local Government and the Law Enforcement Agents. The
deliberations at the meeting were cordial and the selection
process was peaceful, free and fair.

4. It is pertinent to confirm that the declaration of the
selection of Alhaji Prince Highbred Aliru Momoh, a son of the
Idao branch of the Ikelebe Ruling House, who obtained the
majority votes of ten against two of the twelve member Selection
Committee is dispute free.

5. Your early action towards the recognition of the Otaru-
elect is hereby solicited, please.

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(C. O. Andu),
Chairman,

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SIGNATURE

NAME

RANK

DATE

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Chief Umoru Oshiozekhai Musa,
Iyetse Quarter,
Auchi.

19th June, 1996

Our Ref: No. UOM/O&U/O/S

The Commissioner for Special Duties,
Military Administrator's Office,
Directorate of Local Government and
Chieftaincy Affairs,
Department of Chieftaincy Affairs,
Benin City.

Thro:-

The Chairman,
Etsako West Local Government,
Auchi.

[Handwritten signature]
25/6/96

SELECTION OF OTARU OF AUCHI BY THE SELECTION COMMITTEE:

We wish to inform you that by virtue of the powers conferred on us by the declaration made under section 8 of the Traditional Rulers and Chiefs Edict 1979 stating the Customary Law regulating succession to the title of Otaru of Auchi, and after receiving nominations of two suitable candidates a meeting of the Selection Committee was convened on Friday 14th June, 1996 to select a candidate to succeed the late Otaru of Auchi. Alhaji Prince H. A. Momoh and Prince M. S. Ikharo were the two candidates and they appeared before the Selection Committee at the said meeting.

2. Consequently Alhaji Prince H. A. Momoh obtained the majority of the votes of the Selection Committee members who were all present and was then duly declared selected. He scored ten (10) votes to defeat his rival Prince M. S. Ikharo who scored two (2) votes. Minutes of the meeting of the Selection Committee are attached for your perusal and necessary action.

3. The selection of Alhaji Prince H.A. Momoh as the Otaru of Auchi is not in dispute. The Otaru-elect will be installed on a date to be communicated as soon as the burial rites and ceremonies of the late Otaru of Auchi are completed by the Ikelebe Ruling House, please,

[Handwritten signature]

Alhaji Chief U.O. Musa,
The Odion of Usogun and
Selection Committee, Auchi,
(Chairman)

R.T.1

[Handwritten signature]

Alhaji Chief M. G. Braimah,
Representing Alhaji Mallam
Braimah Ogono, The Odion of
Akpekpe, Selection Committee,
Auchi. (Member).

Alh. Mallam Momodu Beture Abdulai,
The Odion of Aibotse,
Selection Committee, Auchi
(Member)

R.T.1

[Handwritten signature]

Alhaji Chief Braimah Kaduna

Chief Braimah Kaduna

SIGNATURE

NAME

RANK

DATE

DIRISU

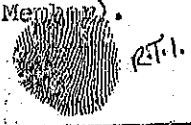
Alhaji Dirisu Igiekhumbhe,
Second Eldest Member of Omomoti/
Igechi/Omomo Branch,
Selection Committee, Auchu
(Member).

Alhaji B.A.T. Momoh,
Alhaji Prince B.D.T. Momoh,
Eldest Member of Idao Branch,
Selection Committee, Auchu
(Member).

A. Kadiri

Alhaji Prince Abdulai Kadiri
Second Eldest Member of Idao
Branch, Selection Committee
Auchi. (Member).

Alhaji Prince Isah Ikhare
Eldest Member of Ikhare Branch,
Selection Committee, Auchu,
(Member).



Prince D. A. Ikhare

sp. of Prince D. A. Ikhare
Second Eldest Member of
Ikhare Branch,
Selection Committee, Auchu
(Member).

Alhaji Prince Osuma Abikhiela,
Eldest Member of Abikhiela Branch,
Selection Committee, Auchu
(Member).

YERIMA H

Alhaji Chief Yerima Abikhiela,
Second Eldest Member of Abikhiela Branch,
Selection Committee, Auchu,
(Member).

The above was read over in English and interpreted to
the makers in Auchu dialect wherein they seemed perfectly
to understand before they affixed their thumb impressions thereto.

PRINCE G.A.Z. MOMOH,
(SECRETARY),
OTARU - IN - COUNCIL,
ROYAL PALACE,
AUCHI.

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- 88 -

NOTES TAKEN AT THE MEETING OF THE AUCHI SELECTION COMMITTEE FOR THE SELECTION OF A SUITABLE CANDIDATE TO FILL THE VACANT STOOL OF OTARG OF AUCHI HELD IN THE COUNCIL HALL, AUCHI ON FRIDAY, 14TH JUNE, 1996

1.0 PRESENT:

1.1 All the members of the Committee composed of the four Odion of the five villages of Auchi and two Princes each from the four branches of the Ikelebe Ruling House were all present.

1.1.1 Chief U.O. Misa, The Odion of Usogun - Chairman

1.1.2 Alhaji Chief M.G. Braimah, Representing Alhaji Mallam Braimah Ogbono, The Odion of Akpekpe - Member

1.1.3 Alhaji Mallam Momodu Beture Abdulai The Odion of Aibotse - do -

1.1.4 Alhaji Aniru Garuba, Representing Alhaji Aliu Dirisu, Elegiemeh, the Odion of Iyekhei/Igbei Quarters - "

1.1.5 Chief Braimah Kadiri, Eldest Member of Omonokua/Igechi/Omomo Branch - "

1.1.6 Alhaji Dirisu Igiekhumhe, Second Eldest Member of Onofue/Igechi/Omomo Branch - "

1.1.7 Alhaji Prince B.D.T. Momoh, Eldest Member of Idao Branch - "

1.1.8 Alhaji Prince Abdulai Kadiri, Second Eldest Member of Idao Branch - "

1.1.9 Alhaji Prince Isah Ikharo, Eldest Member of Ikharo Branch - "

1.1.10 Prince D.A. Ikharo Representative of second Eldest Member of Ikharo Branch - "

1.1.11 Alhaji Prince Osuma Abikhiele, Eldest Member of Abikhiele Branch - "

1.1.12 Alhaji Chief Yerima Abikhiele, Second Eldest Member of Abikhiele Branch - "

2.0 OBSERVERS IN ATTENDANCE:

2.1 Alhaji B.A. Anayberokhai, Chairman,

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- 2.2 H.R.H Umoru Omogwa (JP),
The Onogie of Jagbe, and current
Chairman of Etsako West Traditional Council.
- 2.3 Mr. T.O. Rhodes (S.P),
Outgoing Divisional Police Officer,
Nigeria Police Station,
Auchi.
- 2.4 Mr. F. Okoli (GSP)
Incoming Divisional Police Officer,
Nigeria Police Station,
Auchi.
- 2.5 Mr. C.A. Eze,
Security Chief,
Auchi.
- 2.6 Mr. T.A. Eterebhe,
Officer Incharge,
Criminal Investigation Bureau,
Auchi.
- 2.7 Mr. Ogiekhekpe,
Chief Inspector of Education,
Auchi.
- 2.8 Mr. A.A. Ade-Akhani,
Senior Personnel Officer,
Etsako West Local Government,
Auchi.
- 2.9 Mr. C.O. Audu,
Principal Personnel Assistant II,
Etsako West Local Government,
Auchi.

3.0 OPENING:

3.1 The meeting was declared open with prayers said by Alhaji Momodu Seghosime, the Chief Imaam of Auchi at 10.00 a.m.

4.0 ADDRESS BY THE CHAIRMAN OF THE SELECTION COMMITTEE:

4.1 Chief U.O. Musa, the Odion of Usogun and the Chairman of the Selection Committee welcomed all members of the Committee to the meeting. He disclosed that invitations were extended to the Chairman of Etsako West Local Government, the Chairman of Etsako West Traditional Council, Principal Officers of Local Government in charge of Chieftaincy matters, the Divisional Police Officer and the Security Chief to attend the meeting as observers and also to provide Police surveillance during the meeting. He recalled his letter of invitation Ref No. UO/100/1999

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He appealed to members of the Committee to eschew bitterness and should not create room for acrimony and rancour during the deliberation and voting process as the exercise was purely a contest between brothers. He told them that the Local Government has put in place all the necessary apparatus for the success of the selection. He pointed out that he was guided by the law establishing the Selection Committee in summoning the meeting and for all actions he had enunciated so far for the purpose of appointing a new Otaru of Auchi.

4.2 Concluding, he assured them that by virtue of his age which had bestowed the Chairmanship of the Committee on him, he would ensure a free and fair election for posterity. He thanked the Chairman of the Local Government and his team of observers for coming to monitor the selection exercise.

5.0 ADDRESS BY THE CHAIRMAN, ETSAKO WEST LOCAL GOVERNMENT:
ALHAJI B.A. ANAVBEROKHAI.

5.1 The Chairman, Alhaji B.A. Anavberokhai before his address ordered the observance of one minute silence in respect of the late Otaru, H.R.H. A.G Momoh, Ktelebe II. He thanked the Chairman and members of the Selection Committee for inviting him and others to attend the meeting as observers. He explained that the invitation has indicated clearly that the Chairman and his Selection Committee had no hidden agenda. He appealed to the contestants and their supporters to see themselves as brothers and should not regard the election as a do or die battle. He further pointed out that Auchi Community had always stood out for good and they should therefore not do anything that could breach the peace in the Country especially if it is realised that Auchi was not only a Local Government Headquarter but the foremost town in Edo North Senatorial District. He then wished the

Committee and a free and fair

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DATE

6.0 GOODWILL ADDRESS BY H.R.H UMERU AOMGWA, THE ONOGIE OF JAGBE:

6.1 His Royal Highness, Umeru Omogwa, the Onogie of Jagbe and current Chairman of Etsako West Traditional Council spoke in the manner the Local Government Chairman had earlier spoken. He appealed to the members to avoid anything that would cause chaos in the Community and that they should see the selection exercise as a family contest where there will be no winner or a loser. He urged the entire Community to avoid acts that would cause bitterness in the Community. He pointed out that anything that effects Auchi will affect the whole Etsako. He then wished the Committee a successful deliberation.

7.0 APPOINTMENT OF A RETURNING OFFICER:

7.1 The Chairman, Chief Alhaji U.O Musa reported that the principal agenda for the day was the selection/election of a suitable candidate to succeed the late Otaru of Auchi. He explained the need to appoint a returning officer who must be a neutral person to install confidence in the process and allay the fears of doubting Thomases.

7.2 After a short deliberation it was unanimously agreed that a returning officer be appointed. Consequently, Mr. Ogiekhekpe the Chief Inspector of Education, Etsako West Local Government Area was unanimously appointed to conduct the selection exercise at the instance of the Chairman of the Selection Committee.

8.0 SELECTION OF A SUITABLE CANDIDATE:

8.1 The Chairman, of the Selection Committee disclosed that in accordance with the declaration of the Customary Law regulating succession to the Traditional Ruler Title of Otaru of Auchi, he invited nominations from candidates from the four branches of Ikelebe Ruling House as soon as the

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promised the people of Auchi prosperity and vowed to work for the peace and progress of all. He prayed Almighty Allah to give him the wisdom and great courage to rule Auchi. He concluded by appealing for the full support and co-operation of all.

10.0 VOICE OF THANKS:

10.1 Prince B.D.T. Momoh thanked the Chairman and the members of the Selection Committee for the success of the selection exercise. He thanked the Chairman of the Local Government, the Chairman of the Traditional Council, officials of the Local Government, the Divisional Police Officer, the Security Chief and other Law Enforcement Agents for their contribution towards the success of the selection. He thanked the Ikelebe Ruling House and the people of Auchi for their co-operation. He thanked Almighty Allah and assured the Otaru-elect of the Community's support as he reigns as the new Otaru of Auchi.

11.0 ADJOURNMENT:

11.1 The meeting was adjourned and members rose at 11.15 a.m. with closing prayers said by Alhaji Prince Umoru Abudah.

Musa
(Alhaji Chief U.O. Musa)
The Odion of Usogun and
Chairman, Selection Committee,
Auchi.

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Ikelebe Ruling House,
P. O. Box 20,
Usogun Quarters,
AUCHI.

7th June, 1996.

Our Ref: IDU/vol.1/96/004
Your Ref: UOM/o of U/02

The Odion of Usogun,
Chairman of Selection Committee,
To the Otaruship of Auchl,
Auchl.

sir,

SELECTION OF A CANDIDATE TO THE STOOL OF OTARUSHIP OF AUCHI

I refer to your letter Ref. No. UOM/O of U/02 dated 4th June, 1996 and to draw your attention to the 14th of June, 1996 in particular, the date chosen by you for the selection of a candidate to the stool of Otaru of Auchl and to say that it is most inappropriate.

Since the demise of Alhaji A. G. Momoh, Ikelebe the second, the Otaru of Auchl, you as the Odion of Usogun and incidentally the Chairman of Selection Committee, you did not invite the four Ruling Houses for discussions as how to choose a mutual date for the selection of a candidate from among the contestants.

In your letter referred to above, you said the date of the election would be ten days from the date of the letter you wrote on 4th June, 1996 and how you unilaterally come about that date remains questionable.

I am the most senior Prince among the Princes in Ikelebe four sub Ruling Houses. I expected you to summon a meeting of the eight most senior Princes from the four sub Ruling Houses and the four Odions from the five villages to discuss -

Signature
D. W. S. M. P. d. out

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- (1) A mutual date for the selection
- (2) Procedure and method of voting
- (3) Officials of the selection such as Presiding and returning officers who must not be interested body.
- (4) That the twelve voters, the candidates and their agents, the election officials and security agents would be in attendance.
- and (5) Declaration of results.

Since the above procedures for the conduct of a free and fair election are not spelt out, I suggest that the date of the election be postponed for better preparation.

Invite us, the Princes and the four Odions for better arrangement without which the election can not hold.

Your reply to this letter is urgently expected, please.

Thanks for your co-operation.

Alhaji Prince Isa Ikharo
Head of Ikelebe Ruling House

Jurist:- The contents of this letter were read and interpreted in Etsako Language to the signatory and he agreed to have understood the interpretation before signing.

M. A. Ikharo
Secretary

Ikharo branch of Ikelebe
Ruling House,
Auchi
IDU/Vol. 1/96/004

Copy:-

- 1. The Military Administrator, Edo State, Benin City
- 2. The Odion of Akpeke, Akpeke village, Auchi
- 3. The Odion of Aibotse, Aibotse village, Auchi
- 4. The Odion of Iyekhe, Iyekhe village, Auchi
- 5. The Chairman, Etsako West Local Government Area, Auchi
- 6. The Secretary, Etsako West L.G. Traditional Ruling Council
- 7. The Head of Idao Ruling House
- 8. The Head of Omamoro/Iyehi Omomo Ruling House
- 9. The Head of Abikbile Ruling House
- 10. The Secretary, Etsako West Local Government Council

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SELECTION COMMITTEE OF THE OTARU OF AUCHI
C/O ALHAJI CHIEF U. O. MUSA
IYETSE QUARTERS
AUCHI.

REF. NO.: UOM/O of U/08 DATE: 6th JULY, 1996

The Hon. Commissioner for Special Duties,

ATTENTION: Mr. C. I. Ikhine,

Directorate of Local Govt. and Chieftancy Affairs,
P. M. B. 1067,
Benin City.

Thror: The Chairman,
Etsako West Local Government, ETSAKO WEST LOCAL GOVERNMENT
Auchi. AUCHI.

BAA
CHAIRMAN 15/7/96

FILLING OF THE VAGANT TRADITIONAL RULER STOOL
OF THE OTARU OF AUCHI IN ETSAKO WEST LOCAL
GOVERNMENT AREA

In line with the request in your letter on the above subject matter; Ref. No. CHS.1/Vol. II/394 of 3rd July, 1996, we wish to state as follows:

- (i) That the full names and titles of the last Otaru of Auchi are Alhaji Ahmed Gurusu Momoh (JP) Ikelebe II The Otaru of Auchi.
- (ii) That he hailed from the Idao branch of the Ikelebe Ruling House, in Auchi.
- (iii) That he passed away on Saturday, 11th May, 1996.
- (iv) That the burial rites and ceremonies in respect of the last Otaru in line with Islamic dictates were performed on Sunday, 19th May, 1996 and Saturday 22nd June, 1996. The burial rites and ceremonies have thus been completed in line with Auchi norms, tradition and custom.
- (v) That the traditional installation of the Otaru-elect is scheduled to take place from Saturday, 27th July, 1996 to Saturday 3rd August, 1996 and the coronation i.e. presentation of staff of office shall be scheduled to take place four months thereafter i.e. at about Saturday 30th November, 1996, subject to the convenience of the State Military Administrator.

Thanks and God Bless.


U. O. Musa

(1) Chief Umeru Oshiozekhai Musa
Chairman,
Selection Committee of the

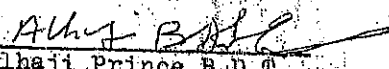
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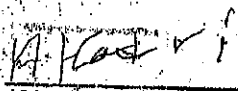
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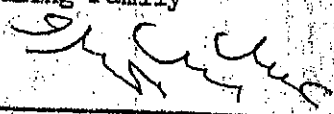
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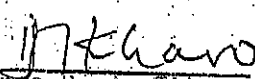
 R.T.
(2) Chief Braimah Kadiri
Eldest member of Omonofua/
Igechi/Omomo Ruling Family


DIRISU
(3) Alhaji Dirisu Igiekhume
Second Eldest member of
Omonofua/Igechi/Omomo
Ruling Family


(4) Alhaji Prince B.D.T. Momoh
Eldest member of Idao
Ruling Family



(5) Alhaji Prince Abdulai
Chief Kadiri
Second Eldest member of
Idao Ruling Family

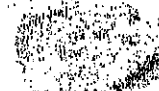

(6) Alhaji Prince Isa Ikharo
Eldest member of Ikharo
Ruling Family



(7) Prince D. A. Ikharo
Second Eldest member of
Ikharo Ruling Family

 R.T.
(8) Alhaji Prince Osuna
Abikhiele
Eldest member of Abikhiele
Ruling Family

YERIMAH
(9) Alhaji Chief Yerima
Abikhiele
Rep. of Second Eldest member of
Abikhiele Ruling Family

 R.T.
(10) Alhaji Mallam Braimah
Ogono
The Odion of Akpekpe
Member Selection Committee

 R.T.
(11) Alhaji Mallam Momodu Beture
Abdulai
The Odion of Aibotse
Member Selection Committee

 R.T.
(12) Alhaji Aliu Dirisu
Eleghiemeh
The Odion of Igbei/Iyekhei
Member Selection Committee


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The above was read over in English and interpreted to the makers in Auchi dialect wherein they seemed perfectly to understand before they affixed their thumb-impressions thereto.

SLG
Pl. forward the original of this to R. without delay.


PRINCE G.A.Z. MOMOH,
(SECRETARY)
OTARU - IN - COUNCIL
ROYAL PALACE.



EDO STATE

DIRECTORATE OF LOCAL GOVERNMENT AND CHIEFTAINCY AFFAIRS
P. M. B. 1076
BENIN CITY
EDO STATE OF NIGERIA

Your Ref

Our Ref: CHS. 1/Vol. II/402

23 July 1996

The Chairman,
Etsako West Local Government,
Auchi.

REPLYING OF THE VACANT TRADITIONAL RULER STOOL OF
THE OTARU OF AUCHI IN ETSAKO WEST LOCAL GOVERNMENT
AREA.

- I am directed to refer to your letter No. Pol. 31/Vol. III/101 of 15th July, 1996 on the above mentioned subject and to ask you to request the Kingmakers of Auchi to furnish this office with a statement confirming that the traditional installation of the Otanu-Ilect has been duly completed.
1. The statement which should indicate the date (viz. day/month/year) of the traditional installation should be duly signed by the Kingmakers and forwarded as usual through your goodself, Chairman, Etsako West Local Government.
 2. Kindly treat as very urgent.

(L. A. Garhe)
for: Hon. Commissioner for Special Duties

Shk
Pl treat urgently and comply

25/7/96

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SELECTION COMMITTEE OF THE OTARU OF AUCHI
C/O ALHAJI CHIEF U.O. MUSA
IYETSE QUARTERS
AUCHI. RANK.....
DATE.....

Ref no: UOM/O of U/12

Date: 5th August 1996

The Hon. Commissioner for Sp. Duties,
Directorate of L. Govt. and Chieftancy Affairs,
P.M.B. 1076,
Benin-City.

[Signature]
CHAIRMAN
ETSAKO WEST LOCAL GOVERNMENT
AUCHI.

Thro: The Chairman
Etsako West Local Govt.
Auchi.

RE: FILLING OF THE VACANT TRADITIONAL RULER STOOL OF
THE OTARU OF AUCHI IN ETSAKO WEST LOCAL GOVERNMENT AREA.

SUB: TRADITIONAL INSTALLATION OF THE OTARU-ELECT OF AUCHI.

Your memos Ref nos: CHS. I/Vol. II/394 of 3rd July 1996
and CHS. I/Vol. II/402 of 23rd July 1996 refer.

The Traditional Installation of the Otaru-Elect of Auchi
started on Saturday 27th July 1996 and was concluded on a very
peaceful, cordial, hitchfree and happy note on Saturday 3rd August
1996.

By this memo, we, the Kingmakers are hereby informing you
formally of the successful completion of the traditional install-
ation rites.

We thus wish to appeal to you to use your good governance to
accord to the new Otaru of Auchi, H.R.H Alhaji Aliru H. Momoh,
Ikalehe III, all functions and entitlements due there to
effective 3rd Aug. 1996. Thus we state categorically that all
requirements of the Chieftancy Declaration Law of 1979 respecting
filling of the vacant stool of the Otaru of Auchi have been
concluded without any dispute what so ever.

We wish to request that the presentation of staff of office
be scheduled to take place on Sat 7th Dec. 1996.

We remain yours very sincerely,

[Signature]

(1) Chief Umoru O. Musa
Chairman
Selection Committee of the
Otaru of Auchi.

(2) Chief Braiman Kadiri
Eldest member of Omonofua
Igechi/Omomo Ruling Family

[Signature]
(3) Alhaji Dirisu Igleknume
Second Eldest member of Omo-
nofua/Igechi/Omomo Ruling Family

[Signature]
(4) Alhaji Prince B.D.T. Momoh
Eldest member of Idao Ruling
Family

[Signature]
(5) Alhaji Prince Abdulai Chief
Idao Ruling Family

[Signature]
(6) Alhaji Prince Iga Ikharo
Elders member of Ikharo
Ruling Family

D.A. Ikhara
 (7) Prince D.A. Ikhara
 Second Eldest member of Ikhara
 Ruling Family

(8) Alhaji Prince Osuna
 Abikhiele, Eldest member
 of Abikhiele Ruling Family

YERIHAN
 (9) Alhaji Chief Yerima Abikhi-
 ele Rep. of Second Eldest member
 of Abikhiele Ruling Family

(10) Alhaji Mallam Braimah
 Ogono, The Odion of Akpe-
 kpe Member Selection Committee

K. G. A. Z. Momoh
 (11) Alhaji Mallam Momodu Beture
 Abdulai, The Odion of Abotse
 Member Selection Committee

(12) Alhaji Aripo Dirisu
 Eleghiemeh, The Odion of
 Igbei/Iyekhei, Member
 Selection Committee

The above was read over in English and interpreted to the
 Kingmakers in Auchi dialect wherein they seemed perfectly to
 understand before they affixed their thumb-impressions thereto.

G. A. Z. Momoh
 PRINCE G. A. Z. MOMOH,
 (SECRETARY)
 OTARU - IN - COUNCIL
 ROYAL PALACE, AUCHI.

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 BANK
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c.c. Military Administrator.

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From The Chiefs and Elders of Auchi,
c/o Chief A. M. Idaeo,
P. O. Box 1,
Auchi.

20th September, 1973.

The Secretary To The Military Government,
Military Governor's Office,
Benin City.

The Permanent Secretary,
Ministry of Local Government
and Chieftaincy Affairs,
Benin City.

The Divisional Officer,
Etsako Division,
Auchi.

The Local Government Inspector,
Ministry of Local Government
and Chieftaincy Affairs,
Divisional Office,
Auchi.

The Secretary,
Etsako District Council,
Auchi.

Sirs,

Date of Appointment of Alhaji A. G. Momoh
Ikelebe II as The Otaru of Auchi.

We wish to express our profound gratitude to the Midwestern Nigeria State Government for approving the appointment of Alhaji Ahmad Guruza Momoh Ikelebe II as the Otaru of Auchi but with due respect, we observe that the effective date fixed as 10th of March, 1973, should have been 18th of October, 1970 for the following reasons:

- (i) That Alhaji Ahmad Guruza Momoh was on the 18th day of October, 1970, appointed to be holder of the Otaru of Auchi Chieftaincy Title under the former 1958 Approved and Registered Declaration in respect of the Chieftaincy.
- (ii) That the Secretary of the Etsako District Council was duly notified of the appointment made on the 18th of October, 1970 before the institution of the Ojugo Commission of Inquiry which gave birth to the new approved and registered Declaration.
- (iii) That even when it was ordered that the selection and appointment of a person to the Otaru of Auchi Chieftaincy should be done afresh under the new approved and registered Declaration, Alhaji A. G. Momoh was again duly selected and appointed on the 10th of March, 1973, under the new approved and registered Declaration. The last exercise (10/3/73) confirmed the popular support of the appointment of Alhaji A. G. Momoh Ikelebe II on the 18th of October, 1970, under the former 1958-approved and registered Declaration.

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(iv) That having regard to the provisions of section 9D of the Chiefs Law Cap. 19, it appears that the appointment of Alhaji A. G. Momoh Ikelebe II as the Otaru of Auchi on the 18th of October, 1970 under the former 1958 approved and registered Declaration was VALID.

2. In view of the foregoing, we humbly appeal to the State Government to consider the question of approving the appointment of Alhaji A. G. Momoh Ikelebe II as the Otaru of Auchi with retrospective effect from the 18th of October, 1970.

3. We shall be grateful for a kind and favourable consideration please.

4. Copies of this letter are being sent to His Excellency, the Military Governor, the Honourable Commissioner for Local Government and Chieftaincy Affairs and His Highness the Otaru of Auchi.

We remain, Sirs,

Your loyal and faithful Citizens,

1. Chief N. M. Ideo
Chief N. M. Ideo, The Yelimah
of Usogun, Auchi

6. Chief Etsu Ailelu
The Odion of Usogun.

2. Chief Musa Itsene
The Daudu of Akpekpe.

7. Chief Osumah Aimanesi
The Odion of Akpekpe.

3. Chief Abu Momodu
The Daudu of Iyekhei.

8. Chief Musa Tokura
The Odion of Aibotse.

4. WAYA
Chief Waya Mamudu,
The Daudu of Aibotse.

9. Chief Zibiri Unuakhe
The Odion of Iyekhei/

5. Chief Kano Ogiri
The Yamah of Igbei.

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SIGNATURE [Signature]

NAME T. Eghobami

RANK PIR

DATE 20/11/2020

Read and interpreted in such dialect to the above named signatories who seemed perfectly to understand same before their thumb impressions.

Isah K. Ikhazuagbe
Interpreter
Usogun Quarter Auchi
24/9/73

HC - 11300-1992
WDC - 11300-1992
of 2/11/2020
HIGH COURT REGISTRAR
ENIN CITY, EDO STATE

DATE