

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

BEFORE HIS LORDSHIP HONOURABLE JUSTICE C. O. IDAHOSA ó
CHIEF JUDGE

ON TUESDAY THE 28TH DAY OF JUNE, 2016

BETWEEN:

SUIT NO. HAB/10/2005

MR. PHILIP IYAMU

... PLAINTIFF

(Suing on behalf of himself and Igieduma Community)

AND

MR. EWANSETIN USEGHESOMON

...

...

...

...

DEFENDANT

J U D G M E N T

This suit was filed on 5/5/2005 at the High Court, Abudu. It is a chieftaincy dispute, over the Eholor of Igieduma. In the Edo South Senatorial District, i.e. Benin Kingdom, of Edo State, wherein Igieduma is located, chieftaincy disputes are few and far between.

In this suit the Claimant claims as follows:-

36 ōWhereof the Claimant claims against the Defendant as follows:

- (a) A declaration that in accordance with tradition, native laws, customs and their usages by Igieduma people, the claimant being a surviving son and/or a male descendant of the Eholor of Igieduma, he is the proper person to be made the Eholor the last Eholor having died without a male child.

- (b) A declaration that no Eholor, his family members and/or elder can decide to give the Eholor of Igieduma to any person who otherwise is not qualified to be the Eholor.
- (c) A declaration that purported approval of the Oba of Benin for the Defendant to act as the Eholor was based on misrepresentation by the Defendant to the palace of the Oba of Benin and therefore null and void.
- (d) Perpetual injunction to restrain the Defendant, his servants, and/or agents, privies or any other person and/or dealing with the Defendant as Eholor of Igieduma or causing to be performed any act or function or ceremony connected with the office of Eholor of Igiedumaö.

This case was initially defended vigorously by the Defendant, who filed all the necessary processes, as well as a counter claim.

The Claimant filed a defence to the counter claim. Claimant testified and called 7 witnesses. At a stage during the proceedings, the Defendant moved the court to dismiss the case, on the ground that the title of Eholor has become extinct with the creation of Enogie of Igieduma by the Oba of Benin. The motion was unsuccessful. At that point, the Defendant declined further participation in the proceedings.

In the final address, learned counsel urged me forcefully to act on the uncontradicted evidence put before the court by the Claimant and his witnesses. I agree with this submission and the case law referred to.

I have read closely the testimony of the Claimant and his witnesses. None of them said that the claimant had or has been made the Eholor of Igieduma by the Oba of Benin. All witnesses came short of saying that the Oba had made the Claimant the Eholor of Igieduma. But the Claimant agreed that it is the Oba of Benin who will or who has the authority to appoint the Eholor. See paragraphs 61 and 62 of the statement on Oath of Claimant.

Even if the Defendant, as stated in paragraph 63 of the Claimant's Statement on Oath, is no longer contesting the title of Eholor of Igieduma, because he has been conferred with the title of Enogie of Igieduma, the court is not the proper authority to confer the title of Eholor of Igieduma upon the Claimant.

From the totality of the testimony of the Claimant, (See paragraph 61 of the Claimant's statement on oath i.e. the testimony of Claimant) the Oba has to be satisfied that the person to be made the Eholor is the rightful person. According to the Claimant, he met all the requirements but due to the Defendant's influence at the Oba's Palace, he lost out in the face. The nature of the influence was not stated.

From this piece of evidence, it is clear to me that the Oba did not choose the Claimant and did not give him the royal blessing. The court cannot force the Oba to choose the Claimant. Granting the claim in paragraph 66(a) of the statement on oath would have the effect of making a choice for the Oba. The matter of who

becomes an Eholor or an Enoigie are traditional matters which come directly within the area of authority of the prescribed Authority in traditional matters in Benin Kingdom i.e. the Oba of Benin.

In the circumstances, the claim in paragraph 36 (a) of the Amended Statement of Claim cannot be granted and it is accordingly dismissed.

The claim in paragraph 36 (b) is neither here nor there. It is not tied to any particular person or persons, and the order if made cannot be enforced. It is accordingly struck out.

The claim in paragraph 36(c) has lost its relevance when the Defendant abandoned the case having been given what he considers a higher title. Accordingly the claim is dismissed.

Claim (d) in paragraph 36, cannot be granted, as the Claimant has not been declared the Eholor.

On the whole the action fails, and it is dismissed except paragraph 36(b) which was struck out.

C. O. IDAHOSA
CHIEF JUDGE
28/6/2016

COUNSEL

N. P. OSIFO Esq. for Claimant