

P.W.1 is Okon Asukwo Jonah. He lives at Pamol Quarters Oghara Delta State. He is a farmer. On October 2007, the Odionwere of Evbosa community the 2nd Defendant sent for him. He met him and his cabinet, he told him that the 1st Defendant confessed that he was a wizard. He told the 2nd Defendant that he was not a wizard. The 2nd Defendant told him that he should prepare himself to go to the native doctor to swear to an idol. He said he should produce a sheep, tortoise, cock, kola nuts and assorted types of drinks. He told them that he was a Christian. He was told that since he refused to swear he should not enter his farm land to harvest his crops or carryout any farming activity there, he pleaded with him he refused.

In March the following year, he consulted a Solicitor who sent a letter to the 2nd Defendant and filed a suit. He planted yams on the farmland which cost N180, 000.00, plantains which cost N150, 000.00, cassava cost N120, 000.00, pepper N80, 000.00. The rent on one acre of land is N7, 000 times 6 acres total = N572, 000.00. Mr. Francis Osa transferred the land to him. Solicitor's letter dated 19/3/2008 was admitted in evidence as Exhibit 'A'. The defendants induced the company to transfer him. He has a copy of the letter when the defendants received a summons from the High Court his company wrote a letter. Letter from Pamol Nigeria limited dated the 9/6/2008 to the Plaintiff is admitted in evidence as Exhibit 'B'. The company was asked to transfer him. Transfer advice from pamol Nig. Limited was admitted in evidence as Exhibit 'C'. The action of 1st and 2nd defendants lowered him and exposed him to hatred, ridicule and contempt. It deprived him of his daily bread and financial benefit. It lower his reputation in his place of work trade or occupation. He was registered as a farmer in his National I.D. Card. Copy of National I.D. of Plaintiff was admitted in evidence as ID1.

Under cross examination by I.G. Edewi Esq. the witness stated that he was residing in Pamol quarters but he farmed in Evbosa village. He leased the farm from Francis Osa not the 2nd defendant. Exhibit 'A' was addressed to the 1st defendant. He is still suing the defendants for libel. He knows Emekiaze from Akwa-Ibom. He does not know if he is still farming at Evbosa. He was not employed in Calabar. It was the defendant that pressurised the company to post me to oghara.

Under cross examination by the 1st Defendant the witness stated that the 2nd Defendant said it was the 1st defendant that confessed him to be a wizard. The Odionwere seized his farm, stopped him from farming.

Under re-examination witness stated that he lives in pamol quarters which is at Evbosa community.

P.W.2 is Imeh Okon Asuquo. She lives at Oghara. She is a pamol worker and farmer. The Plaintiff is her husband. She knows the defendants. They lived at Sakponba at pamol before they moved to Oghara. She was transferred in 2010.

On 28/7/2007 the Odionwere called her husband that the 1st defendant said he was a wizard. He asked him to buy sheep, fowl, tortoise, kola nuts and drinks to swear to juju. The Plaintiff refused that he was a Christian. The 2nd defendant said he should not enter his farm. The Plaintiff instructed his lawyer to write the defendants. They owned 6 acres of land paid N7,000 each year per acre they planted yam, cassava, plantain and fresh pepper on the land.

Under cross-examination by I.G. Edewi Esq. the witness stated that the plaintiff and herself married under native law and custom. It was at the Odionwere's palace he called her husband a wizard not at pamol. The Odionwere said they should not enter the farm. He did not put it in writing.

Under cross-examination by the 1st defendant the witness stated that it was the Odionwere that called her husband a wizard. It is the Odionwere that seized the farm and the crops. The Plaintiff is her husband.

1st Defendant is Macaulay Nsikpong. He lives at Pamol Nigeria Limited. He did not call the Plaintiff a wizard. He did not seize his farm, he is a stranger. He rented his farm like the Plaintiff. The Odionwere told him to call the Plaintiff a wizard, that if he does not he will seize the Plaintiff's farm. It is not possible for him to call the Plaintiff a wizard as he is not a wizard.

Under cross examination by Dr. Y.A.O. Iyasere the witness stated the odionwere instructed him to call the Claimant a wizard. The Odionwere said he was a wizard and he should buy native chalk, kola nut, a sheep and drinks to swear on the ground. He bought the items and went to swear. The Odionwere seized his farm land prior to the purchase of the items.

Under cross examination by I.G. Edewi Esq. the witness stated that he worked at Oghara, Claimant was not working there at the same time. Pamol and Evbosa are not the same place. He did not confess to be a wizard. The Plaintiff's Counsel wrote a letter to him.

2ND DEFENDANT'S DEFENCE

DW2 is Usen Michael John. He lives at Evbosa. He is a farmer. In October 2009 the Plaintiff had problem at Pamol. The 1st defendant accused him and

other people to be wizards. The 1st defendant reported to the odionwere. The Plaintiff was amongst those the 1st Defendant called a wizard. The 2nd defendant did not stop him from going to his farm or seize his farm.

Under cross – examination by Dr. Y.A.O. Iyasere the witness stated that he was taken to the home of the Odionwere because the 1st defendant called him a wizard. The Odionwere did not say anything. He doesn't work at Pamol. He is not aware that the 1st defendant took certain items to the Odionwere. He was not told to bring anything. There were many people gathered there on that day, the odionwere blew a trumpet and people gathered.

Under cross –examination by the 1st defendant the witness stated that it was the 1st defendant that called him a wizard. That it was the Odionwere that brought him to court. It is his first time in court.

D.W.3 is Iniobong. She lives at Pamol Sakponba road. She is a farmer her husband is a rubber tapper. She knows the 1st and 2nd defendants. In October 2007 her late brother's children confessed that they were witches. They said the 1st defendant gave them witchcraft. They went to the head of Pamol to find out if the 1st defendant was the one that gave them witchcraft. He refused. They were taken to the Odionwere of Evbosa.

Under cross-examination by Dr. Y.A.O. Iyasere the witness stated that the odionwere gave him his farm. Pamol and Evbosa are the same place. The Odionwere also controls Pamol. The Odionwere found the 1st defendant to be a wizard. The 1st defendant bought items to the odionwere. She was not there when the Odionwere called the Plaintiff a wizard.

D.W.4 is Francis Osa. He lives in Eguosa village Sakponba. He is a security officer with Pamo, he is also a farmer. He is a head farmer at Eguosa community. He has a document to show those who farm at Eguosa. Farm Registers are admitted in evidence as Exhibits D1 and D2. Farm maps are admitted in evidence as Exhibit E1,E2,E3,E4. I did not sell any land to the Plaintiff. He did not know if the Plaintiff is a farmer in Evbuosa land. The Plaintiff's name is not on Exhibits D1 – D2 or E1-E4. He was not aware as a member of Evbuosa community that 2nd defendant in presence of 1st defendant alleged Plaintiff to be a witch.

Under cross-examination by Dr. Y. A. O. Iyasere the witness stated that the Ministry of Agriculture gives the land. They are given permit, they pay for the permit to the government. The payment is general. They have 125 acres. He was not the only one in charge of distribution of land, Isaac Osa at 210 was his assistant. He prepared the farm map for village use. The issue of witchcraft

originated from Pamol Eguosa. He was never present when issue of witchcraft was raised.

Under cross examination by 1st defendant the witness stated that he doesn't farm in Akika road. They do not pay N7,000 per acre. It was not the Odionwere that called him a wizard. His farm was not seized, he was not aware of the thing the 1st defendant bought.

D.W.5 is Alexander Osa. He is the 2nd defendant, he lives in Evbuosa village he is a farmer. He knew the Plaintiff in court. The 1st defendant told him the Plaintiff was a wizard. He did not tell the Plaintiff to bring certain items and swear to the land. He did not tell the Plaintiff not to enter his farm land. The Plaintiff's Counsel never wrote him a letter. The 1st defendant never showed or gave him any letter. He is not liable to the Plaintiff. He did not instruct Pamol to transfer the Plaintiff from Sakponba road to Oghara. He is not a staff of Pamol. He did not sell land to the Plaintiff.

Under cross-examination by Dr. Y. O. Iyasere the witness stated that he is the Odionwere. The 1st defendant comes to buy things in their village. It was Pamol that brought the 1st defendant to his home that he was a wizard. The 1st defendant told him that he was a wizard. 1st defendant said the Plaintiff was a wizard.

Under cross examination by the 1st defendant witness stated that he did not send for the 1st defendant. He did not tell him to drink, he did not take him to one village to drink. He does not know the name of the village they travelled to drink. Police did not arrest him, he did not bail anyone. He did not promise him N20, 000 to go to the Oba's palace to say that Okon was a wizard.

In proof of 2nd defendant's counter claim he relied on his defence and added that the Plaintiff sued him and he briefed a counsel in Benin. He chartered vehicle to court 29 times, he gave his lawyer N5, 000 for transport daily. He has an agreed sum paid to his Counsel. Receipt from Imarhiagbe C. Edewi & Co. dated 21/7/2010 was admitted in evidence as Exhibit 'F'. For the inconvenience and lies told against him he claims the sum of N2, 000,000.00 from the Plaintiff.

Under cross-examination by Dr. Y. O. Iyasere the witness stated that the person that led them is no longer in the camp. 1st defendant told him that his name was Nsunkpo. He cannot recall the person who said the 1st defendant was a wizard. The Manager of Pamol sent them to bring the people to him. He did not call them wizards.

I.G. Edewi, Esq. learned Counsel for 2nd Defendant in his submission canvassed five issues for determination.

On Issue (1) Whether the Plaintiff's pleadings for defamation of libel or slander in this case is a proper pleading? Counsel submitted that the Plaintiff under cross Examination stated that he was suing the Defendants for libel as per Exhibit A, the letter which his solicitor wrote to the 1st Defendant. **Anozia V A.G. Lagos (2011) 4 WRN 150 at 164 ratio 17.**

"Black's Law Dictionary 8 Edition, 2004 at 934; UBN Ltd. V Oredein (1992) 6 NWLR (pt.247) 355 at 371 paragraph F-H; Sketch Publishing Co. Ltd. V Ajagbemokeferi (1989) NWLR (pt.100) 678; Nwachukwu V Nnoremale (1957) 2 ERLR 50"

That in a case for libel, the Plaintiff must of necessity plead in verbatim in his statement of claim the exact words uttered or written by the Defendant and in the language rendered. This is important in order to give him opportunity to react to it. That is the position and has not changed. **Skye Bank Plc. V Akinpelu (2010) 187 LRCN 110 at 115 ratio 6; Olaniyi V Elero (2007) 34 WRN 32 at 36 rationales 4, 5,7; Chief Son Okafor V D. O. Ikeanyi & Ors (979) 3-4 SC 99 at 103; (1979) 12 NSCC 43; Alawiye V Ogunsanya (2003) 39 WRN 140 at 142 ratio 1; Okolie V Marinho (2006) 27 WRN 27 WRN 120 at 125 ratios 1,3; N.E.P.A V Inameti (2002) 13 WRN 108 at 111 ratio 4 pages 137 – 138 lines 45 – 15; Oruwari V Osler (2013) 22 WRN 1 at 6 ratio 1.** That there is no where the libelous words were pleaded or translated in the Amended Statement of Claim and the failure of Claimant to plead the particular word in which he was libeled make the case to fail in its entirety and the evidence led in this case must also fail because it is not founded on any fact. **Olaniyi V Elero (2007) 34 WRN 32 at 37 ratio 5 pgs 47 – 48.** It is the law of libel and slander that there must be publication and the statement of claim must contained the names of those to whom the libelous or slanders words were published to and the said publication must be tendered in evidence. **Ogunbadejo V Owoyemi (1993) 10 LRCN 247 at 249 ratio 2; Skye Bank Plc V Akinpelu (2010) 187 LRCN 110 at 114 ratio 2, 6 SC; Anate V Sanusi (2001) 27 WRN 26 at 28-29 ratios 1,2,3,12 CA; NEPA V Inameti (2002) 13 WRN 108 at 113 ratio 5 CA; Nsirim V Nsirim (2004) 26 WRN 12 at 17 ratio 5,6,7,8,10 SC; Iloabachie V Iloabachie (2005) 35 WRN 1 at 4 R 3, (2005) 129 LRCN 1769 at 1774 RATIO 8; AIB Ltd. V Asaolu (2006) 5 WRN 35 ratio 26, 31 CA; Katto V CBN (1999) 69 LRCN 1119 at 1129 – 1130 ratios 14, 15 SC; Order 25 rule 5 (2) High Court Civil Procedure Rules Edict 1988.** Counsel submitted that the Claimant did not call any evidence to prove his case, the only witness called was the wife which the law presumed both of them as one. Furthermore, the Claimant did not tender any document to prove the said libelous publication which never existed.

Ezomo V Oyakhire (1985) 2 SC 260. That from the evidence of the Claimant, the wife is his only witness and the 1st Defendant, the only deduction from the word spoken or alleged of calling the Claimant wizard, the Amended Statement of Claim and Exhibit 'A' tendered in proceeding tend to be a mere vulgar abuse by the 1st Defendant. That the Claimant, the witness, the 1st Defendant are rubber tappers and farmers at Evbuosa village. The 2nd Defendant is an illiterate old man and Odionwere of Evbuosa. Counsel submitted that the alleged confession of the 1st Defendant and calling of the Claimant a wizard/witch in the house of the 2nd Defendant is a mere vulgar abuse. **Iloabachie (2005) 35 WRN 1 at 4 R 3, (2005) 129 LRCN at 1774 ratios 6,7 SC 8; AIB Ltd. V Asaolu (2006) 5 WRN 35 ratio 27 CA; BON V adehi (2002) 29 WRN 84 at ratio 1 CA; Salawu V Makinde (2003) 1 WRN 91 at 94 ratio 4 CA.**

On Issue '2' Counsel submitted that the Claimant gave evidence to the effect that he was defamed in his character and this has seriously affected his financial credit, he has been exposed to hatred, ridicule and contempt. The Claimant did not call any other witness to prove how his character was discredited and any injury to financial credit, reputation to place of work or profession and obstruction to his means of daily bread. To prove this assertion the Claimant must of necessity call a third party and the third party must state that by the publication or slander, he no longer holds the Claimant in high esteem. **Skye Bank Plc V Akinpelu (2010) 187 LRCN 140 line U – Z SC; Chief Nsirim V Nsirim (2004) 26 WRN 13 ratio 10, (1990) 3 NWLR (pt.138 285 SC; Bank of the North Ltd. V Adegoke (2008) 8 WRN 159 ration 6 CA; BON V Adehi (2002) 29 WRN 84 at 87 ratio 1 CA; Unity Bank Plc V Abiola (2008) WRN 112 ration 3 CA** That the failure of the Claimant to call any witness to attest to his good conduct or reputation shows that the Claimant has failed to prove one of the ingredients of defamation.

On Issue 3 Counsel stated that the Claimant on the 19th of March, 2008 caused his solicitor to write a letter to the 1st Defendant with the bold heading **"ALLEGATION OF WIZARDRY AGAINST MR. OKON ASUKWO JONAH"** demanding from him the sum of N100,000:00 (One Hundred Thousand Naira) only as compensation for the scandalous allegation, the sum of N572,000:00 (Five Hundred and Seventy two Thousand Naira) only for the losses he sustained from his farm land, a release of the farm land to him through the 1st Defendant and a written unqualified apology and a retraction of the false allegation. That the evidence of the Claimant, his Amended Statement of Claim and the 2nd Defendant oral evidence are completely different from Exhibit 'A' the Claimant Solicitor's letter written to the 1st Defendant. That the party cannot deviate from his pleadings it is a complete somersault which the law does not allow. **AIB Ltd. V Asaolu (2006) 5 WRN 35 at 52 ratio 13 CA.** Counsel submitted that oral evidence of the Claimant, his witness and the 1st Defendant

oral evidence is inadmissible to contradict the content of a written document Exhibit 'A'. **Ogundele V Agiri (2010) 9 WRN 1 at ration 7 ratio 3 pg. 22 lines 20 -30.**

On Issue '4' Counsel submitted that in Exhibit 'A', the Claimant demanded for payment of cash crops from the 1st Defendant but in the Amended State of Claim, the Claimant demanded for payment of the land and the unharvested crops from the 2nd Defendant which he failed to prove. The 2nd Defendant 3rd witness denied ever selling any land to the Claimant and went further to tender Exhibit D1, D2, E1, E2 and E3 the farm map recorded farm register which shows the names of farmers who were allocated with farm land but the name of the Claimant not among them. That the Claimant has not been able to prove that he has a 6 acre of farm land and unharvested crops and Exhibit A is a letter of demand from the 2nd Defendant. /Contract for sale of land must be in writing and under seal. **Ozua V Suleiman (2009) 11 WRN 154 at 162 ratio 10.**

On Issue '5' Counsel submitted that the 2nd Defendant filed a counter claim against the Claimant for the sum of N2,000,000:00 (Two Million Naira) only for the wrongful suit along with the 3rd Amended Statement of Defence on the 10th of May, 2010. That in proof of the counter claim, the 2nd Defendant/Counter Claimant gave evidence on his behalf and tendered Exhibit 'F' the receipt for the payment of the sum of N500,000:00 (Five Hundred Thousand Naira) only. He gave evidence to the effect that he came to court for over 29 times both to Benin City and Abudu and that he hired vehicle all these time to come to court. That with oral evidence and the tendering of Exhibit 'F' the 2nd Defendant has proved the counter claim. Counsel urged the Court to dismiss this suit with substantial cost as the suit is lacking in merit, gold digging, vexatious, speculative, incompetent and abuse of the process of this Honourable Court.

Counsel urged the court to grant the counter claim against the Claimant as the 2nd Defendant/Counter Claimant has proved the Counter Claim on the balance of probability as required by law.

Dr. Y. A. O. Iyasere, Esq. of learned Counsel for the Claimant submitted that the defamatory statement made by the 2nd Defendant is a matter that cannot be ignored on technical ground. That Counsel should not strive at technicalities to defeat the course of justice, particularly when the technicalities can be put right. **Biruwa V The State (1992) 7 LRCN 150 ratio 1; Eskaka Cattle Ranch V NACB (1998) 56/57 LRCN 3336 ratio 1; Buhari V Obasanjo (2005) 130 LRCN 1959 Ratio 24; Shanu V Afribank Nig. Plc (2002) 101 LRCN 1956;** Order 15 Rule 5 of Edo State Procedure rule. From the evidence of the 1st and 2nd defendants and the evidence of 2nd defendants DW2, who was not declared to be hostile witness, the 2nd defendant called the claimant a wizard when his

plan to use the 1st defendant failed. Counsel submitted that from the evidence of 2nd defendant's DW1, it is clear that the 2nd defendant exploits innocent non-indigene of Bini by falsely accusing them of witchcraft. That it is criminal and tortuous to call a person a wizard. It is not a mere vulgar abuse. That our penal laws have been against the practice of witchcraft or calling a person a witch or wizard. **State V Airaodion & Ors (2002) 3 LRCN 52 RL; Babatola V Aladejana (2001) 101 LRCN 22 95 ratio 2, 1; Shanu V Afribank Nig. Plc. (220) 130 LRCN 1935 r 24.** That the 2nd defendant called the claimant wizard, a word that the 2nd defendant used, no other prove is required.

Counsel submitted further that the criminal laws of the defunct Bendel State that is in operation in Edo State that to call a person wizard or for a person to admit, is a criminal offence under section 30, 81 and 207 of the criminal code. The penal laws have been against the practice of witchcraft or calling anybody a witch or wizard. That the publication or report of statement cannot be made until the statement cannot be made until the statement is made and given to the media to be published. That the publication of a statement is a different matter. What exists in a permanent form is not published until it is made known by the person who has the initial knowledge. The determination of the question of whether a statement is defamatory or not is to consider what meaning the words would convey to the ordinary person. To consider whether the circumstances in which the words were published or used and determine whether a reasonable persons would understand them. That in action for libel it is not the mere writing of the libelous matter that is important, it is the making known of the defamatory matter known to other persons. In an action taken consequent to the judgment of the Odionwere palace court by the Odionwere and Elders in the presence of numerous people, what is of paramount importance in the determination of the case is to ensure that substantial justice is done to the parties. **Offoboone V Ogosa (2005) 7 SC (Pt 45) 525; Angbanelo V UNB Ltd. (2000) LRCN 1145 ratio 4, 5; Emiantor V NK Baby (1999) 72 LRCN 31 35 Rationale 1, 2,5; Daily Times Nig. Ltd V Williams The QLRN 20 R4; Chike Ogo V Abiba Oge MLR 118 R1, 2, 3, 5; Chief Williams & 6Ors V The West African Pilot NMLR 846 R1, 2, 3,4,5, 6.**

Counsel submitted further that 2nd Defendant admitted before Court that people brought the 1st defendant to his house for questioning, that from the investigation he found that 1st defendant is a wizard. That he asked the 1st defendant to mention names of other wizards and that the 1st defendant said that 2nd defendant called the claimant's name. The Claimant told the 2nd defendant that he is not a wizard. That he told the court that the manager of pamol brought them to his house. 2nd defendant's DW2 told the court that she brought Macaulay to Odionwere. That Macaulay and Okon have farms in Evbosa village. The DW2 told the court that Macaulay paid what he was asked to pay

and the 2nd defendant received the items from him. That 2nd defendant who was not comfortable with his 2nd witness testimony said that was not his witness. 2nd defendant DW2 told the court that he was not there when claimant was called Wizard. When he was defending he said that the manager did not come with the people and that it was not some small boy that spoke to him. That they brought alleged persons to him for trial is a sufficient proof that he called the Claimant and the 1st defendant wizard. That in law the Claimant merits presumed damage. The 2nd defendant 1st and 3rd witnesses and 2nd witness, to some extent contradicted themselves. The cannot rely on the evidence of the 2nd defendant because of the inconsistencies in his statement and the contradictions in the evidence of the 2nd defendant and his witness are unreliable and conflicting. Therefore urged the court to believe only the statement of 2nd defendant DW2 who has come to speak the truth to the court while the witnesses should be adjudged as false and tainted. **Sowemimi V State (2004) 118 LRCN 4141 R 5; Adebayo V Ighobdalo (1996) 38 LRCN 747 R 1; Igbi V State (2000) 75 LRCN 3721 r3, 4, 5, 6, 8; Agbaje V Ajibola (2000) 93 LRCN 1 R 2; Amobi V Amobi (1996) 42 LRCN R09, R02.**

On the 2nd Defendant/Counter Claimants Claim, Counsel submitted that the written address filed by 2nd Defendant pursuant to Order of court made on the 26th day of July, 2011 on his application amounted to attempt to shut out the claimant/respondent from replying to 2nd defendant counter-claim even when the reply to the counter claim has been filed. That the Claimant filed reply on the 12th of May 2009, then another on 21st of July 2009 and on 27th of July 2009. And finally on 30th of October 2012, and another on 18th of January 2013 in compliance with the new procedures rules. That the 2nd defendant counsel, before this act tended to confuse and bamboozle the court. Counsel urged the court to note that none of this applications has been moved before his address was filed and he sharply called on the court to fix a date for judgment. That since the court is there to do substantial justice, which has now sat on the throne, displacing technicality, the claimant/respondent is entitled to give his evidence in respect of the counter claim as entrenched under the constitution, this is doctrine of fair hearing which is a fundamental issue. Counsel submitted that the last motion filed on the 18th of January 2013, was struck out erroneously without being heard and without 2nd defendant filing a counter affidavit on the misleading application. Counsel urged court to grant the claimant relief because the matter of defamation of character of the claimant has been proved and the 2nd defendant should be found liable to pay damages to the claimant.

I have read the processes filed in this suit and submissions of Counsel. Slander constitutes words spoken about a person with a view to bringing him into disrepute or damage his character and standing which words are published to third parties, the onus of proving the publication of the words complained of is on

the Plaintiff. Okuka V Olusoga (1962) 1 All NLR 625; Emiator V Nig. Army (1999) 12 NWLR (pt.631) 361.; PVC It.d V Lawal (2005) 5 NWLR (pt.911) 121.

The Claimant testified and called one witness his wife. Their testimony is that the 2nd Defendant sent for him that 1st Defendant confessed that he is a wizard.

Learned Counsel for the 2nd defendant contended in his address that there was no where the libelous words was pleaded or translated in the Amended Statement of Claim. In paragraph 5 of the amended Statement of claim it is stated:

“The 2nd Defendant told him that the 1st Defendant informed him that the Plaintiff is a wizard.”

I find that the word wizard was so pleaded. The essential ingredients of the tort of defamation are;

- (a) The words complained of must have been published.
- (b) The publication must lower the Plaintiff in the estimation of the right thinking members of the community.
- (c) The words must be defamatory or convey defamatory imputation.
- (d) The words published and complained of must refer to nobody else but the Plaintiff.
- (e) That it was the defendant who published the defamatory words.

Nisirim V Nisirim 1990 3 NWLR (pt.138) 285; Din V ANNN Ltd (1990) 3 NWLR (pt.218) 437; Hon. Justice Onu V Agbese & Anor. (1985) 1NWLR (PT.4) 704.

The test to be applied in determining whether or not the words complained of are defamatory in their natural and ordinary meaning is whether under the circumstances a reasonable man to whom the publication was made would be likely to understand it in a libelous sense. The words must disparage or lower the integrity of the complainant in the estimation of right thinking members of the society. The test whether the words in question are defamatory is objective. The applicable test is whether right thinking members of the society will regard the words in their ordinary and natural meaning as casting any aspersion on the character of the Plaintiff. Complete Communications Ltd. & anor V Onoh (1998) 5 NWLR (pt.549) 218; Okafor V Ikeanyi (1979) 3-4 SC 99; Egbuna V Amalgemated Press (1961) 1 All NLR 25; Dumbo V Idugboe (1983) 1 SCNLR 29; Salawi Motors Ltd. V Lawal (2000) FWLR (pt.3) 577. The word wizard connotes having magic powers or spiritual powers to do evil deeds and is capable of instilling fear in the minds of people, in the instant case, a plea of the

defendant that the word is not translated is unnecessary. Innuendo arises in pleading of libel action where the meaning of the words alleged to be libelous is of doubtful or ambiguous import where the meaning of the words is precise and clear a plea of innuendo is most unnecessary. The court will make use of the natural ordinary meaning of the words in determining whether there exists a cause of action in libel. **Complete Communications V Bianca Onoh Supra.** The Claimant case was supported by the evidence of the DW2 who stated that the 1st defendant accused him and other people to be wizards, the 1st Defendant reported to the Odionwere. The Claimant was amongst those 1st defendant called a wizard.

Under cross-examination, he stated that he was taken to the home of odionwere because 1st defendant called him a wizard. There were many people there on that day, the odionwere blew a trumpet and people gathered. There is evidence before court from the Claimant and the defence that people were present when the publication was made at the odionwere palace. The Claimant testified that the publication of the word, he is a wizard lowered him and exposed him to hatred, the 2nd defendant asked him to go through an ordeal. The company Pamol, employers of the Claimant were aware of the pending suit vide exhibit 'B'. His evidence was corroborated by PW2 who stated that 2nd defendant told him to go through ordeal and stopped him from farming on the land. The Claimant tendered Exhibit 'A' letter from his Solicitor, Exhibit 'B' letter from Pamol to the Claimant. Exhibit 'C' transfer advice from Pamol. That it was the defendants that induced the company to transfer him. 1st Defendant admitted calling the Claimant a wizard, that the 2nd Defendant instructed him to call the Claimant a wizard.

I find as fact that the Claimant proved the essential ingredients for the tort of defamation – libel and that the Claimants case succeeds. I have given consideration to the counter claim filed by the 2nd defendant; I find that the case of the defence is riddled with material contradictions and at best supports the case of the Claimant. DW2 said 1st Defendant accused him and others including Claimant to be wizards. They were taken to Odionwere's palace, odionwere 2nd defendant blew a trumpet and people gathered. DW2 said they went to the head of Pamol to find out if the 1st defendant was the one that gave them witchcraft, they were taken to odionwere palace. The odionwere found 1st defendant to be a wizard. He brought items to the odionwere. She was not present when the odionwere called Claimant a wizard, all these facts coupled with the evidence of the 1st defendant supports the Claimants case that 2nd defendant and 1st defendant called the Claimant a wizard. Consequently, I find no merit in the counter claim and same is accordingly dismissed.

The court hereby enter judgment for the Claimant as follows.

1. N1,000,000.00 (One Million Naira) only as damages for false allegations and punitive orders by the defendants.
2. N572,000 (Five Hundred and Seventy two Thousand Naira) only being the total cost of the unharvested crops from the 2nd Defendant.
3. N42,000.00 (Forty two Thousand Naira) being the total cost of the land from the 1st Defendant.
4. An order of injunction restraining the 1st Defendant and other persons from calling the Plaintiff a wizard and the 2nd Defendant from preventing him to carry out his lawful duties on his farming land.

HON. JUSTICE G. O. IMADEGBELO
J U D G E
18/4/2016

COUNSEL:

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I. G. Edewi Esq.	2 nd Defendant