IN THE NATIONAL AND STATE HOUSES OF ASSEMBLY
ELECTION PETITION TRIBUNAL
HOLDEN AT SOKOTO
ON THURSDAY, THE 3RD DAY OF OCTOBER 2019
BEFORE THEIR LORDSHIPS:

HON.JUSTICE---------- P.A. AKHIHIERO (CHAIRMAN)
HON. JUSTICE---------- A.N. YAKUBU (MEMBER I)
HIS WORSHIP ----------S.T. BELLO (MRS.) (MEMBER II)

PETITION NO: EPT/SKT/HA/35/19

BETWEEN:

1. **HON. UMAR SHUAIBU** } **PETITIONER**
2. **PEOPLES DEMOCRACTIC PARTY** }

AND

1. ISA HARISU KEBBE

2. ALL PROGRESSIVES CONGRESS

3. INDEPENDENT NATIONAL ELECTORAL COMMISSION (INEC) } **RESPONDENTS**

JUDGEMENT
DELIVERED BY HIS WORSHIP S.T. BELLO (MRS)

The Petitioners vide a Petition dated the 13th day of April 2019 and filed the same date are challenging the election of the 1st Respondent on the platform of the 2nd Respondent to the office of member, House of Assembly for Kebbe Constituency

of Sokoto State held on the 9th day of March 2019 and supplementary election held on the 23rd day of March 2019.

The grounds for presenting the Petition are as follows:

i. The 1st Respondent was not duly elected and/ or duly returned elected by majority of lawful votes cast at the election held on the 9th day of March 2019 and the supplementary election held on 23rd day of March 2019 to the seat or office of member of the Sokoto State House of Assembly, Kebbe Constituency of Sokoto State.

ii. The election and the return of the 1st Respondent was invalid by reason of corrupt practices or non-compliance with the provisions of the Electoral Act, 2010 (as amended) and the 3rd Respondent's Regulations and guidelines for Election Officials 2019.

iii. The 1st and 2nd Respondents were at the time of the election, not qualified to contest the election.

While the **RELIEFS SOUGHT BY THE PETITIONERS are as follows;**

i. The return of the 1st Respondent as the winner of the election of 9th of March, 2019 held in House of Assembly of Sokoto State Kebbe Constituency of Sokoto State to the seat or office of member of the House of Assembly Sokoto State be declared invalid on ground of non-compliance with the provisions of the Electoral Act, 2010 (as amended) and the 3rd Respondent's Regulations and Guidelines for Election Officials 2019.

ii. The votes unlawfully ascribed or allocated to the 1st Respondent as a result of the manipulation, underage voting, ballots stuffing, inflation of results, fabrication and allocation of votes as demonstrated above are deducted from the votes declared in favour of the 1st Respondent, it would leave Your Petitioner, with the highest votes cast.

iii. The 1st Respondent was not duly returned or elected by majority of lawful votes cast at the election of 9th March, 2019 and supplementary election held on 23rd March 2019 to the seat or office of member of the House of Assembly for the Kebbe Constituency of Sokoto State and consequently the said return is invalid, void and contrary to the provisions of the Electoral Act, 2010 (as amended) and the 3rd Respondent's Regulations and Guidelines for Election Officials 2019.

iv. The 1st Petitioner having polled majority of lawful votes cast at the said election of 9th of March, 2019 and supplementary election of 23rd March 2019 to the seat or office of member of the Sokoto State House of Assembly for the Kebbe Constituency of Sokoto State and having

satisfied all constitutional requirements for such election be declared the winner and returned elected.

v. AN ORDER that all the votes unlawfully ascribed or allocated to the 1st Respondent as a result of the manipulation, underage voting, ballots stuffing, inflation of results, fabrication and allocation of votes as demonstrated above are deducted from the votes declared in favour of the 1st Respondent.

iv. **AN ORDER** setting aside the certificate of return issued by the 3rd Respondent to the 1st Respondent and in its stead, the 3rd Respondent be ordered to issue a certificate of return to the 1st Petitioner as winner of the Sokoto State House of assembly, Kebbe Constituency election held on the 23rd day of March, 2019.

vi. **AND FOR SUCH FURTHER OR OTHER ORDERS** as this Honourable Tribunal may deem fit to make in the circumstances of this case.

The 1st and 2nd Respondents in response to the Petition filed their joint replies to the Petition on the 23rd day of April 2019 and incorporated a notice of preliminary objection in same in line with extant laws. The Petitioners filed a reply on points of law to the said preliminary objection on the 16th day of May 2019 to which the 1st and 2nd Respondents replied on the 20th day of May 2019. The 3rd Respondent filed a reply to the Petition on the 2nd day of May 2019.

At the close of the pre-hearing session, all the parties filed issues for determination which were quite germane. The Tribunal distilled the following issues from same;

1. Whether the omission of the Petitioner's Counsel who affixed his stamp, seal and signed the petition, to tick his name among other names of counsel listed, will render the petition incompetent, even when same counsel has filed other processes wherein he signed and ticked his name as counsel to Petitioner.
2. Whether the return of the 1st Respondent as member representing Kebbe Constituency, Sokoto State, in the election held on the 23rd day of March 2019 ought not to be set aside on grounds of gross irregularities or substantial non-compliance with the provisions of the Electoral Act 2010 (as amended).
3. Whether the Petitioners have led sufficient and credible evidence before this Honourable Tribunal, to prove that the 1st Respondent was not duly

elected or returned by majority of lawful votes cast at the election for the office of Member House of Assembly for Kebbe Constituency of Sokoto State, held on the 23rd day of March 2019.

4. Whether the 1st Respondent presented and submitted evidence of proper and due qualification to the 3rd Respondent as a qualified person to contest for the election into Sokoto House of Assembly, Kebbe Constituency.

The case thereafter proceeded to trial. At the trial, the Petitioners called only one witness while all the Respondents opted out of calling witnesses in rebuttal. A summary of the case presented by the petitioners at the trial is as follow:

P.W.1, Garba Bello Kebbe adopted his witness statement on oath. A summary of the said witness statement on oath is to the effect that he is a card carrying member and collation Agent for the 2nd Petitioner at Kebbe collation center. According to him, his party, the 2nd petitioner, nominated the 1st Petitioner HON. UMAR SHUAIBU as the candidate on their platform at the Kebbe Constituency, Sokoto State election held on the 9th day of March, 2019 and supplementary election held on the 23rd day of March 2019. The 1st Respondent was a candidate at the same election on the platform of the 2nd Respondent. He stated further that the 3rd Respondent returned the 1st Respondent as the winner of the election via a declaration made on the 25th day of March, 2019 after recording the scores of the parties in the appropriate result sheets by her officers. The breakdown of the said result are as contained in Form EC8E (1) as follows:

S/N	NAMES OF CANDIDATE	POLITICAL PARTY	SCORES
1.	Abdullahi Maidamma	ADC	0
2.	Isa harisu Kebbe	APC	18662
3.	Kabiru Bello	APDA	5
4.	Bello Hassan	DA	0
5.	Aishatu Salihu Musa	JMPP	0
6.	Abubakar Abdullahi	KP	0
7.	Bashir Abubakar	LP	0

8.	BadadeKebbe	NCP	0
9.	Umar Shuaibu	PDP	14856
10.	Hassan Yasau	PPN	0
11.	Suleiman Abubakar	SDP	3
12.	Ladan Hassan	SNP	0

He stated further that he will rely on the various INEC result sheets (*i.e.* Form EC8A(I), EC8B(I), EC8C(I) and EC8D(I), transcript from the card reader, voters register, all ballot papers, ballot boxes, schedule of distribution of ballot papers, Reports by Forensic experts, information and telecommunication experts and some other experts, reports of physical and electronic inspection of election materials obtained in the course of this Petition and other materials, used for on or during the 2019 general election amongst others, to show not only the recorded scores for the various Polling Units, Ward, and Local Government of Sokoto State but to also show that there are inaccuracies, acts of non-compliances and outright breaches or contraventions of extant electoral laws and regulations which attended the scores recorded therein in favour of the 1st and 2nd Respondents. He will also place reliance on the testimony of election Observers and Monitors, both local and international and videos and photographic evidence at the trial.

According to him, Kebbe Constituency of Sokoto State has a total number of one (1) Local Government Area (LGA) which is Kebbi Local Government and the following wards or Registration Areas (RAs):(a) Ungunshi Ward/RA;(b)Kebbe West Ward/RA;(c) Margai 'A' Ward/RA;(d) Margai 'B' Ward/RA;(e)Kuchi Ward/RA (f)Nasagudu Ward/RA; (g) Sangi Ward/RA; (h)Fakku Ward/RA;(i) Girkau Ward/RA; and (j) Kebbe East Ward/RA.

He complained that in many instances, ballot stuffing and various irregularities and malpractices were carried out by the 3rd Respondents' officials at the collation centers, on the Forms EC 8A (I), EC 8G (I) at the behest of the 1st and 2nd Respondents while in some other instances outright violence, ballot box snatching

and stuffing of ballot boxes with massively thumb-printed ballot papers were perpetrated by the 1st and 2nd Respondents and their supporters and thugs.

He was informed by the 2nd petitioner's polling unit agents of the following units; shiyaru bandawaki 001,Dukura 'A' 007,Dukura 'B' 004 Of Kebbe East, shiyar Magaji 002, shiyar Ubandawaki 003,Ungushi Ashibiti 004, Gidangarso 006 of Ungushi Ward, shiyarkaura 003,shiyar sallama of Margai 'A' Ward, Sangi shiyar kofai of Sangi Ward, Kebbe West Ward ubutu ubutup.u. 007, ubutu primary school P.U. 002 and Girkau Ward P.U. 009, at 2nd petitioner party office in kebbe , kebbe local Government Area, at about 9:00pm on 23rd March 2019, of the following fact of which he believed to be true that in Shiyar Ubandawaki Polling Unit 006 of Kebbe East Ward/RA:

a. There were instances of ballot stuffing and intimidation of the Supporters of the Petitioners.
b. The Village head directed during time of prayer that the ballot boxes containing ballot papers be removed and kept in his bedroom, while voting has already commenced half way, only for it to be returned already stuffed with ballot papers. This was done with the active support of the 3rd Respondent and the Law enforcement agents did nothing.
c. But for this dastardly and unlawful conduct of the 1st and 2nd Respondents and its supporters the Petitioner would have won the election at that polling unit with substantial votes.
d. That all the votes purportedly recorded for the 1st and 2nd Respondent ought to be set aside.
e. That while all these were going on, agents of the PDP were chased back and disallowed from coming near where they were fabricating and entering purported votes in favour of the 1st and 2nd Respondents by the law enforcement agents pretending to be guarding the ballots.
f. That the total votes purportedly recorded for the 1st and 2nd Respondents at the Collation Centre were mere fabrications and ought to be set aside.
g. That at Sangi Shiyar Kofar Polling Unit, of Shangi ward, the total number of votes cast was more than the accredited voters. The total number of accredited voters was 379, the total votes allocated to APC was 227 while 153 votes was allocated to PDP, the total votes cast was 380, instead of 379 votes, which he knows as a fact as a case of over voting.

h. That in Unguchi Ward of Kebbe Local Government; the home ward of the 1st Respondent has six (6) polling units, namely, Units 001, 002, 003, 004, 005 and 006.

i. That election commenced in Units 001 Gwandi Primary school, 005 Primary School Maikurfuna and 006 Maikurfuna Gidan-Garso on the 9th of March, 2019 and to his surprise, votes were arbitrarily allocated to the APC, to the detriment of PDP, a situation that resulted in a protest from their agents and supporters.

j. That again in Shiyar Magaji, Ubadadawaki, Ungushi and Asibiti units, *i.e.* Units 002, 003 and 004 respectively, at a point, when the 3rd Respondent's officials had to go on break and observe Islamic prayers, the ballot boxes, ballot papers and other sensitive and insensitive materials in respect of Units 002, 003 and 004 were brought to a single point and left in an open and conspicuous place so that all agents and other people present could keep eyes on the materials and boxes.

k. That while the boxes and materials for units 002, 003 and 004 of Ungushi Ward/RA were being watched by all and sundry, the 1st Respondent's brother who happens to be the District Head of Ungushi, fearing that his brother's defeat was imminent as witnessed in units 005, 006 and 001, came to the open space with thugs and other street urchins and took the ballot boxes, ballot papers and other materials and were followed by 2nd Respondent's agents and other supporters into the District head's house.

l. That the supporters and members of the PDP were disallowed from gaining access into the house of the District Head by the security agents and the thugs but could from the windows see agents of the 2nd Respondent and supporters of the 1st Respondent massively and ferociously thumb-printing ballot papers and stuffing the ballot boxes with the law enforcement agents seeing them and doing nothing. The Petitioner shall rely on forensic analysis of the ballot papers which shall prove multiple thumb-printing.

m. That it took over 2 hours before the boxes were brought out at about the time 3rd Respondent's officials returned from their prayers and break and his agents and supporters protested asking the 3rd Respondent not to countenance whatever had been stuffed in the boxes for the units in favour of the 1st and 2nd Respondents.

n. That by the time the materials forcefully and illegally taken into the District Head's house and the boxes stuffed with illegally thumb-printed ballot papers were brought out, the 3rd Respondent's officials

insisted on counting and declaring results, in spite of our protests the 1st and 2nd Respondents were declared winners of the units.

o. That he was further informed by the same agents that the 340 votes in unit 002, the 416 votes at unit 003, the 606 votes at unit 004 and 234 votes at Gidangarso unit 006 totaling 1596 votes purportedly recorded in favour of the 1st and 2nd Respondents in the affected Units 002, 003 ,004 and 006 of Ungushi Ward/RA were procured by the 1st and 2nd Respondents through illegality, ballot stuffing and other irregularities committed that day as narrated above and ought to be deducted from the votes purportedly scored by the 1st and 2nd Respondents and/or nullified or set aside.

p. that in Dukura A Unit 004 and Dukura B Unit 007 in Kebbe Local Government, Dukura A and B Polling Units, there was complaint of ballot stuffing and intimidation perpetrated by the 1st and 2nd respondent with active support of the 3rd Respondent who made the malpractice possible.

q. that he was informed further, that in Kebbe Local Government Area, the following irregularities and acts of non-compliance with extant electoral law and regulations took place:

i. In Shiyyar Kaura Unit 003 in Margai "B" Ward/RA, the figures and words of votes scored and recorded in the relevant Form EC 8 (A) (I) did not tally, there was also inexplicable under voting and irregularities as total number of vote cast was lesser than accredited voters, no explanation was advanced for the anomaly.

ii. In Fakku Ward, polling unit 002, 006, and 012, there was also inexplicable under voting and irregularities, as total number of votes cast are lesser than accredited voters, no explanation was advanced for the anomaly.

iii. In Magai A and B polling units there were massive irregularities perpetrated with active connivance of the 3rd Respondents and the law enforcement agents present.

iv. In Girkau Ward, jibga polling unit 009, there was a case of over voting at the voting point and the result there was cancelled but the 3rd Respondent went ahead and declared the result in favour of the 1st respondent. The petitioner will contend that the whole polling unit 009 result ought to have been cancelled.

v. In Kebbe West, ubutu ubutu polling unit 007 and Ubutu primary school polling unit 002 at the election held on the 9th March 2019, election were duly held in the said two polling units any case of over voting or any cancellation of result and result declared in favor of the petitioners

surprisingly the 3rdrespondent wrongly included them in the polling unit for re-run election on the 23rd March 2019. The re-run election is against the electoral Act and the Manual guiding the election. (sic)

The petitioner shall contend that the re-run election result ought to be cancelled and the result of election held on 9th March 2019 be counted in favor of the petitioners on the ground that there were so many substantial irregularities, distortions, anomalies, alterations and or manipulations in the Forms EC8A (I), EC8 C (I) and EC8D (I) in respect of areas or units purportedly won by the 1st and 2nd Respondents, particularly Ungushi Ward/RA of Kebbe Local Government Area and should lead to the cancellation and or nullification of votes purportedly recorded or entered in their favor by the 3rd Respondent.

According to him, if the votes unlawfully ascribed or allocated to the 1st Respondent as a result of the manipulation, inflation of results, fabrication and allocation of votes as demonstrated above are deducted from the votes declared in favour of the 1st Respondent, it would leave the petitioner, even without the addition of votes illegally and wrongfully deducted from his votes by the 3rd Respondent in connivance with the 1st and 2nd Respondents, with the highest vote cast. If all the votes illegally deducted from petitioners are added to 1st petitioner votes, the 1st petitioner will further remain the candidate with the highest vote.

He maintained that the 3rd Respondent ought not to have returned the 1st Respondent as elected as it did on the 9th march, 2019 after unilaterally and or whimsically reducing the Petitioner's scores and increasing the scores for the 1st and 2nd Respondents thereby conferring undue advantage on the 1st Respondent to the detriment of his own party, the PDP. That it is wrong for the 3rd Respondent to have distorted or altered the already collated and recorded votes in favour of the 1st and 2nd Respondents.

He stated further that there were several acts of non-compliance with the Provisions of the Electoral Act, 2010 (as amended) as well as the 3rd Respondent's Regulations and Guidelines for Election Officials 2019 and that the non-compliance with the aforementioned Laws and Regulations and flagrant breach of provisions of the Act and Regulations substantially affected the results of the election against the petitioner.

He testified further that he prepared a Schedule of Documents which he mentioned in his depositions. Same was tendered and admitted as Exhibit PP and the documents listed therein admitted and marked as follows:

1. Form EC8A for Sangi SH Kofar Polling unit-Exhibit PP1
2. Form EC8A for Gwandi Primary School Polling unit-Exhibit PP2

3. Form EC8A for Primary School Maikurfune Polling unit-Exhibit PP3
4. Form EC8A for MaikurfuneGidan-Gardo polling unit-Exhibit PP4
5. Form EC8A for Shiyar Kawa polling unit-Exhibit PP5
6. Form EC8A for Rarah Primary School Pollingl unit PP6
7. Form EC8A for Rafin-Kade Lere Primary School Polling unit-Exhibit PP7
8. Form EC8A for Uru, Uru Dan Hili Polling unit-Exhibit PP8
9. Voter's Register for Sangi SH Kofar Polling unit-Exhibit PPA1
10. Voter's Register for Gwandi Primary School Polling unit-Exhibit PPA2
11. Voter's Register for Primary School Maikurfuna Polling unit-Exhibit PPA3
12. Voter's Register for MaikurfunaGidan-Garso Polling unit-Exhibit PPA4
13. Voter's Register for ShiyarKaura Polling unit-Exhibit PPA5
14. Voter's Register for RafinKadaLere Primary School Polling unit-Exhibit PPA6
15. INEC official receipt dated 21/6/19 for payment of certification-Exhibit PPB

Under cross-examination, he informed the Tribunal that the information contained in his deposition were obtained from his Party's Polling agents. According to him, the 1st Respondent is from Fakku ward in Kuchi District. Ungunshi ward is in Ungunshi District. He admitted knowing the District Heads of Ungunshi and Kuchi. Ungushi and Kuchi District have separate District Heads. He however does not know whether the District Head of Ungushi is a brother of 1st Respondent. He maintained paragraph 24(k) of his deposition and insisted that he got the information contained therein from his Party agents which said information is true. He conceded that he cannot bring individual analysis of the votes scored. He also maintained that the ballot box was taken away by the District Head of Ungushi, stuffed with ballot papers before it was returned.

He was shown Exhibit PP2, he confirmed that the score of APC in the Polling unit is 231, PDP 301 at Gwandi Primary polling unit. He confirmed that in Exhibit PP3 which is the result for Primary School Maikurfune the PDP scored 182, APC-155.

In Exhibit PP1 to PP8 that of Ungushi Polling unit is not there. He stands by his deposition in Paragraph 25(IV) that a re-run election was conducted there. There was also a re-run in Ubutu Primary School Polling unit 002.

He insisted that his complaint in Paragraph 25(v) of his deposition is correct. He is complaining of eight Polling units. He does not know the total number of registered voters and those who actually voted at the said eight polling units. He was at the collation centre when the results were released. He voted at Margar ward in Asibiti Polling unit. APC won in his polling unit. He confirmed not being present at the eight Polling units when the hoodlums came. He does not know the name of the Presiding officer in Jidga Polling unit or the polling clerk. He cannot state the number of accredited voters or those who actually cast their votes in Jibga Polling unit 009. In Ungushi Polling unit, the INEC officials went to pray for two hours while leaving the ballot boxes in the custody of the District head.

That was the case for the Petitioners.

As earlier stated, all the Respondents declined calling witnesses in rebuttal thus the case was adjourned for adoption of final address. The Petitioners adopted their final address dated the 13th day of July 2019 and filed on the same date. The 1st and 2nd Respondents adopted their final address dated the 16th day of July 2019 while the 3rd Respondent adopted her final address dated the 20th day of Aug 2019 and filed on the 26th day of Aug 2019.

Steve Emelieze Esq, learned counsel to the Petitioners abandoned the fourth issue posited by the Tribunal on the ground that corrupt practices implies element of criminality, which must be proved beyond reasonable doubt. He referred the Tribunal to Section 135 of the Evidence Act, 2011. According to the learned counsel, where corrupt practices are alleged in a petition, the burden of proof is always a herculean task for petitioners unless the allegations are admitted by the Respondents. His reason for abandoning corrupt practices is because the Petitioners lack the investigative machinery, wherewithal and time to dig out the much required evidence and assemble the eye witnesses to the crime who must testify before the court can be satisfied that electoral offences were committed by the Respondents, and that it substantially affected the outcome of the election.

With respect to the first issue, learned counsel noted that this issue forms part of the objection previously raised at the initial stage of hearing of this petition. He noted that it is crystal clear on the face of the petition that the stamp and/or seal of Paul M. Kasimanwuna, was affixed on the Petition and his name also listed as one of the counsels in the matter. It could therefore only be correct to say that he also signed (Paul Kasimanwuna) as could be deciphered from the signature. He said that the only sin of the counsel was that he did not tick his name on the list of counsel to indicate that he signed it. That it is always presumed that the counsel who affixed his stamp and seal, is the person that signed the process. See: **TANIMU V RABIU (2018) 4NWLR, PT 1610 PG 505 AT 523 especially at Pg 531** and the case of **MAITUMBI V BARAYA (2017) 2 NWLR, PT 1550 PG 347, at PG 394-395,** where the Court held thus:

> *"it is not good practice which is encouraged by the Court for Counsel signing any Court process and even more so election petition to fail to indicate who from the list of Solicitors named in the process appended his signature thereto. Though the failure to indicate the actual name of Solicitor who appended his signature on his petition is not fatal but technicality which should not defeat the end of justice. That is not to say that it should be the norm".* See also: **GAMME INTEGRATED RESOURCES SERVICES LTD V FRN (2017) LPELR-43012 (CA),,** where the Court of Appeal held thus: *"It is not good practice for Counsel signing process to fail to indicate who in the list of Solicitor appended his signature, though the failure to tick is not fatal"*

Learned counsel submitted that the failure to tick is an irregularity which he urged the tribunal not to allow to defeat the justice of this petition on the merits. He submitted further that all the ratios and facts of cases cited by the 1st and 2nd Respondents' Counsel are not applicable to this case. That the Courts have held time without number that no two cases are actually alike in all ramifications and that each case should be treated in its peculiar circumstance. See: **MAI-KIRI V. YAHAYA (2018) LPELR-46595(CA)**

Learned counsel noted that in all the authorities cited by the 1st and 2nd Respondents' counsel, no seal of Counsel was affixed and the issue of ticking name of Counsel does not arise while he has been able to cite authorities that will

assist the honourable tribunal in the just determination of this application. He therefore respectfully urged this Honourable Tribunal to resolve this issue in favour of the Petitioners.

Learned counsel then sought the leave of the Tribunal to argue issues 2 and 3 together in view of the fact that arguments thereto are related and can be dealt with together, conveniently.

According to the learned counsel, the documentary evidence of PW1 was neatly divided into 2 sections showing the Forms EC8A series and Voter's Registers of the Polling Units complained of and insisted that all the Petitioner's documents were tendered through the PW1 not from the bar. Learned counsel also noted that none of the Respondents called any witness in support of their defence nor tendered any document. They are therefore deemed to have abandoned their pleadings, having not led any evidence in support of same. See the case of **AIKI V IDOWU (2006) 9 NWLR PART 984 PAGE 50.**

According to the learned counsel, it is the law that a witness statement on oath represents the evidence in chief of the witness and this is different from pleadings. Having also been cross-examined on same by the other parties, the requirement of proof beyond reasonable doubt has thereby been complied with. He also submitted that pleadings cannot take the place of evidence. That the law does not expect proof beyond a shadow of doubt and the courts have held in plethora of cases that proof beyond reasonable doubt does not mean proof beyond a shadow of doubt. See the case of: **MAIGARI V STATE (2013) LPELR-2089 (SC).**

Learned counsel maintained that the petitioners, through the evidence of PW1 have led cogent documentary and oral evidence in proof of this case as it relates to the allegation complained of in this petition and non-compliance with INEC guidelines and rules regulating the conduct of the said election and this Honourable Tribunal have been empowered to nullify elections in any polling units, wards and Local Government where such irregularities occurred.

According to the learned counsel, the documents tendered by PW1 emanated from the proper custody of the 3rd respondent and they did not deny them or debunk its content during cross-examination. That it is the duty of the party who opposes the facts contained in any evidence tendered before the court to either debunk same by

cross-examination, or tender a contrary evidence to contradict same. Where he failed to so do the court will rely on the evidence before it to do justice. The court/tribunal will have no option but to believe the petitioner's case in that regard on a minimal proof. See: **OKONKWO v. KANO AGRICULTURAL SUPPLY CO. LTD. & ANO (2012) LPELR-9466(CA).**

Thus he submitted that the 1st and 3rd respondents having not called any witness, they are deemed to have abandoned their pleadings and he urged the tribunal to rely on the documentary evidence and the oral testimony in support of same as true. The learned counsel submitted further that the petitioners have done all that is required by law, to show that there was substantial non-compliance, they pleaded elaborately and elegantly the facts that are required to prove all the ingredients of the grounds alleged in their petition and also tendered documentary evidence for the tribunal to see and assist the tribunal in arriving at a just decision and opinion as the justice of the case demands. It was his final submission that the petitioners have made out a good case of non-compliance with the Electoral Act, 2010 (as amended) and extant guidelines regulating elections. He thus urged the tribunal to grant all the reliefs of the Petitioners, in the exercise of its power under the Electoral Act.

Chief Steve U. Nwoke, learned counsel to the 1st and 2nd Respondents noted that the 1st issue is culled from the 1st and 2nd respondents' preliminary objection and submitted that Election petitions are *sui generis* in nature and in filing them, care must be taken to ensure that the laws governing their presentation are strictly complied with as failure to do so will be fatal to the petition and render same incompetent. Once the petition is incompetent, the Tribunal would of necessity lack the jurisdiction to entertain same. This is so because the question of jurisdiction of a court is a radical and crucial question of competence because if a court has no jurisdiction to hear and determine a case, the proceedings are and will remain a nullity ab initio no matter how well conducted and brilliantly decided. See: **DAPLANLONG v DARIYE (2007) 8 NWLR (Pt 1036) 332 and MADUKOLU V NKEMDILIM (1962) ALL NLR 587; MAGAJI V MATARI (2000) 12 S.C (Pt I) 99**.

Learned counsel submitted that the petitioner is expected to state clearly the election he is complaining of. In the present petition, the petitioners stated that

their petition is in respect of the Election "TO THE SEAT OF MEMBER OF THE STATE HOUSE OF ASSEMBLY REPRESENTING SOKOTO SOUTH 1 CONSTITUENCY". In the meantime, the petitioners may have, but the 1st respondent did not contest an election to the seat of member of House of Assembly Representing Sokoto South 1 Constituency in the election held on the 23rd day of March, 2019 or any other election. Accordingly, the petitioners have no cause of action against the 1st respondent in the election for the seat of member representing Sokoto South I Constituency and he urged the Tribunal to so hold.

He submitted further that paragraphs 6, 7,8,9,13,14,15,16,17 and 18 of the petition are complaints against a person or persons who are not parties to the petition. The law is trite that no court of justice is permitted to proceed against a party in a matter which may impugn or tarnish his character and reputation without making him a party to the action. See **BIYU V IBRAHIM (2008) 8 …NWLR (pt 981) 1 at 43 para A**. In the instant petition, the sundry allegations of ballot stuffing and intimidation of the supporters of the petitioners against the village heads of Shiyar Ubandawaki and Ungushi District who were not parties to the petition ought and should be struck out because this tribunal cannot make pronouncement against the conduct of these persons who have no opportunity of defending themselves. See **KALU v CHUKWUMERIJE (2012) 12 NWLR (Pt 1315) 425 at 459 and Action Congress of Nigeria v. Adelowo & Ors.**

Learned counsel therefore urged the Tribunal to strike out these paragraphs and also paragraphs 23 & 24 of the written statement on oath of Garba Bello Kebbe, S.M, S.S.U and A.M.S which are aimed at proving the allegations. If these paragraphs are struck out, there are no facts in support of ground one of the petition, he urged the Tribunal to consequently strike the ground out because a ground of an election petition which is not supported by facts is liable to be struck out.

He said that it may be argued that it is always presumed that the counsel who fixed his stamp and seal on a process is the person who signed the process but he begged to disagree. According to the learned counsel, there is no presumption in law that the counsel who fixed his seal is the person who signed a process. This petition having not been signed by the petitioners or an identifiable solicitor is not signed in

law and is liable to be struck out. See **EMEKA v CHUBA- IKPEAZU & ORS (2017) LPELR -41920 (S.C)** where the apex court said;

> *"This Court had laid down the ground rules on what should be to qualify for an appropriate signing of a legal practitioner on a legal (sic) especially as it relates to an originating process such as a Notice of Appeal or such like. In the case of SLB Consortium Ltd v NNPC (2011) 9 NWLR (Pt. 1252) 317 at 337 -338, the Supreme Court per Rhodes - Vivour JSC stated thus:- "All processes filed in Court are to be signed as follows: First, the signature of counsel, which may be any contraption. Secondly, the name of counsel written. Thirdly, who the counsel represents. Fourthly, name and address of legal firm. Once it cannot be said who signed a process, it is incurably bad, and rules of Court that seem to provide a remedy are of no use as a rule cannot override the law (i.e, the Legal Practitioners Act)."*

In the lead judgment, Onnoghen JSC (as he then was) at pages 331 - 332 (paras H - A) held that*:*

> *"... A process prepared and filed in a Court of law by a legal practitioner must be signed by the legal practitioner and it is sufficient signature if the legal practitioner simply writes his own name over and above the name of his/or her firm in which he carries out his practice." At 332 (Para E) it was further held thus: 'It has been argued that non-compliance with the provision of Order 25 Rule 4(3) supra is mere irregularity... as the same involves the procedural jurisdiction of the Court. I hold the view that the submission is misconceived on the authority of Madukolu v Nkemdilim (supra)... the provision of the Rules of Court involved herein are by the wordings mandatory not discretionary."*

See also the cases of: **In REV. FR. SILAS NWEKE v THE FEDERAL REPUBLIC OF NIG (2018) LPELR-46033, S.L.B CONSORTIUM LTD. V. NNPC (2011) 9 NWLR (PT. 1252) 317. DANIEL V. INEC & ORS (2015) LPELR - 24566 (SC) AT 42 -43 (F-A), EWUKOYA & ANOR V. TAJUDEEN**

BUARIS & ORS (2016) LPELR - 40492 (CA) AT 9 -12 (D-B), EWUKOYA & ANOR v BUARI & ORS (2016) LPELR-40492 (CA) NIMPAR, JCA said,"

> *"It is not the duty of the Court to begin to trace a name on the writ to the signature on the writ to prove that the writ was signed by a legal practitioner. Where a person signs a process, the name of the signatory must be clearly indicated and or stated beneath the signature. No Court is permitted to go on a voyage of discovery to determine such"*

Learned counsel therefore submitted that the mere fact that the stamp of Mr. Paul Kasim, is affixed to the petition would not lead to the assumption that he signed same and he urged the Tribunal to so hold because the petition ought to speak by itself as to who signed it. He thus urged the Tribunal to uphold the preliminary objection and hold that this petition is incompetent and strike same out.

With respect to the 2nd issue, learned counsel noted that in paragraph 14(ii) of the petition, the petitioner's ground for the petition reads:

> "*The election and return of the 1st Respondent was invalid by reason of corrupt practices or non-compliance with the provisions of the Electoral Act, 2010 (as amended) and the 3rd Respondent's regulations and guidelines for Election Officials 2019."*

He thus submitted that once an election is conducted and the result announced by the Independent National Electoral Commission (3rd Respondent), the result so announced is sacrosanct and taken to be correct until the contrary is proved. See Section 168 (1) of the Evidence Act, 2011. According to the learned counsel, the petitioners challenging the result of an election have the burden of rebutting this presumption. See CPC v. INEC (2011) LPELR. Where therefore a petitioner challenges the election on the ground that it was not conducted in compliance with the provisions of the Electoral Act 2010, he has the duty of establishing the following by evidence:-

a) That there was non-compliance
b) That the non-compliance substantially affected the result of the election

Learned counsel posed the question, how can this burden be discharged? He then submitted that the petitioner is required by law to discharge this burden by giving evidence to prove non-compliance alleged, based on polling unit by polling unit, through the agents of the political party or an eye witness that was physically on ground and in true position to testify as to what transpired during the election. This is because one witness cannot testify as to what transpired with respect to more than one polling unit at the same time, as he is not omnipresent. See BUHARI v. INEC (2008) 36 (pt 1) NSCQR 475 @ 693.

In the instant petition, the sole witness called by the petitioner is one *Garba Bello Kebbe*, a collation Agent who stated in his witness deposition that all the information in his witness deposition on oath was information he got from the 2nd petitioner's Agents. See paragraphs 23, 24 and 25 of the written statement on oath of *Garba Bello Kebbe*. He also confirmed this statement during cross examination. Learned counsel then submitted that the evidence of PW1 in its entirety amounts to hearsay evidence and as such is not the best evidence the petitioner could have called. The petitioners by law are required to give evidence of what happened in all the 8 polling units it is complaining of by calling polling unit agents or eye witnesses to testify to what happened at the various polling units. Failure to lead evidence of polling unit Agents or that of an eye witness is detrimental to the petition. See ***GUNDIRI v. NYAKO (2014) 2 NWLR (Pt 1391) 211 @ 245 paras C-D***.

It was also his submission that the evidence of PW1 alleging that the conduct of the election is in non-compliance with the provisions of the Electoral Act, 2010 amounts to hearsay thus inadmissible and should be struck out. PW1 told this tribunal under cross-examination by 1st and 2nd respondent counsel that all the information he got in his written deposition on oath, are information he got from his party agents. It was also his submission that PW1 did not witness any of the allegations as contained in his written deposition on oath and the circumstances they were made in the respective polling units complained of. Of all the 8 polling units complained of, PW1 did not visit any of them. He voted in his polling unit which is not one of the polling units complained of and went off to the collation center to await results. Learned counsel urged the Tribunal to reject as inadmissible the evidence of PW1 being inadmissible hearsay and strike out the written statement on oath of PW1 along with the exhibits as there is no oral evidence on

which they can stand. If this is done, as it should, there will be no evidence in support of issue two.

However in the very unlikely event that the tribunal holds otherwise, it is important to draw the attention of the Tribunal to the fact that PW1 as a collation agent can only be a competent witness if his testimony is direct within the meaning of Section 125 of the Evidence Act 2011. It is a trite law that for an allegation contained in a witness statement on oath to be ascribed probative value it must be from the direct personal knowledge of the witness. When it is otherwise, the court cannot ascribe probative value to it. He thus urged the Tribunal to hold that the return of the 1st Respondent as member representing Kebbe Constituency of Sokoto State in the election held on the 23rd day of March, 2019 is in substantial compliance with the provisions of the Electoral Act, 2010 as the petitioners have failed to prove substantial non-compliance with the provision of the Electoral Act, 2010 (as amended).

With respect to the third issue, learned counsel submitted that for a petitioner to prove that an election result is falsified or manufactured, it is not enough to orally plead same. The petitioner is duty bound to plead and prove two sets of results, the brand he regards as authentic and the brand he branded inauthentic. See the case of ***Terab v. Lawal*** where the Court of Appeal held that:

> *"In order to prove that these alteration and cancellation were made so as to falsify the result of the election, the appellant would need to tender copies of the form EC8A given to his agent at the polling stations so that this could be compared with the originals tendered."*

It is further submitted that election results such as Form EC8A issued by INEC can only be competently tendered by agents of the political party that were present at the polling stations at the time the documents were made and prepared. Hence, an election result tendered by a party agent (e.g collation Agent) who was not at the polling station/unit when the documents were made and prepared is only a documentary hearsay which is inadmissible in law. Exhibits PP1-PP8 was tendered by PW1-a collation agent that was not present at the polling unit when the results were made or prepared. Consequently, his evidence amounts to hearsay. See:

Omisore v. Aregbesola (2015) 15 NWLR (Pt 1482) 2015 at 323-324 where the Supreme Court stated that:

> *"The witness attested that the evidence he gave was based on phone calls and reports he received from his party agents. He also tendered in evidence some documents i.e duplicate copies of forms EC8A's Exhibits 188 and 204. The witness who was not the maker of the report could not however provide nexus between him and the exhibits. He could not also offer proper explanation of what specific relevant each document is to serve....In other words, documentary evidence no matter its relevance, cannot on its own speak for itself without the act of an explanation relating to its existence."*

In the instant case, PW1 attested in paragraph 23, 24 and 25 of his written deposition and under cross-examination that all information in his deposition was gotten from his party agents, PW1 was not at the polling units complained of and was not the maker of all documents tendered by him, neither was he present when the documents were made and prepared. He submitted that the evidence of PW1 as it relates to the documents tendered is documentary hearsay and as such is inadmissible in evidence and he urged the Tribunal to so hold.

Furthermore, when a petitioner is alleging that the respondent was not elected by majority of lawful votes, he ought to plead and prove the votes cast at the various polling stations, the votes illegally credited to the "winner", the votes which ought to have been deducted from that of the supposed winner in order to see if it will affect the result of the election. Where this is not done, it will be difficult for the Court to effectively address the issue. See: **Awuse v. Odili (2005) 16 NWLR (Pt 952) 416 @ 505**. He thus urged the Tribunal to resolve this issue in favour of the 1st and 2nd respondents also.

With respect to the fourth issue, learned counsel submitted that same be deemed abandoned having not been supported by evidence. In any case, the Petitioners have withdrawn that leg of the Petition.

In conclusion, learned counsel urged the Tribunal to hold that:

a. This petition is incompetent and therefore this tribunal lacks the jurisdiction to entertain the petition.

Alternatively,

b. That the petitioners have failed to prove their petition, he therefore urged the Tribunal to uphold the election and hold that the return of the 1st respondent was done in substantial compliance with the provisions of the electoral Act 2010 (as amended) having scored the majority of lawful votes cast at the election held between 9th day of March, 2019 and 23rd day of March, 2019 for Member, House of Assembly representing Kebbe state Constituency and dismiss this petition with substantial cost against the petitioners.

Maurice C. Efobi Esq, learned counsel to the 3rd Respondent's submissions with regards to all the issues are on all fours with the position taken by the learned counsel to the 1st and 2nd Respondents. In Conclusion, learned counsel urged the Tribunal to hold that this Petition lacks merit since the petitioners have failed to prove their petition. He also urged the Tribunal to hold that the election and the return of the 1st respondent was done in substantial compliance with the provisions of the electoral Act 2010 (as amended) having scored the majority of lawful votes cast at the said election.

We have carefully considered all the pleadings filed by the parties, the evidence tendered at the trial and the final addresses adopted by their learned counsels. It is noteworthy that the learned counsel to the Petitioners in his final address abandoned the fourth issue for determination posited by the Tribunal. According to the learned counsel, his reason for abandoning the ground of corrupt practices is because the Petitioners lack the investigative machinery, wherewithal and time to dig out the much required evidence and assemble the eye witnesses to the crime who must testify before the court can be satisfied that electoral offences were committed by the Respondents, and that it substantially affected the outcome of the election. It is also noteworthy that the said fourth issue is based on the 3rd leg of the grounds for the petition. Thus in view of the application of the learned counsel to the Petitioner to withdraw same, the fourth issue for determination and 3rd leg of the ground of the Petition are hereby struck out.

It is now settled law that the issue of jurisdiction whenever raised is always germane to a case. The court held in the case of **OBIUWEUBI V CBN (2011) LPELR-2185 (SC)** that:

> *"Jurisdiction is a threshold matter, it is very fundamental as it goes to the competence of the court to hear and determine the case. Where a court does not have jurisdiction to hear a matter, the entire proceeding no matter how well conducted and decided will amount to a nullity".*

We shall therefore determine the preliminary objection first before proceeding further.

We will start with the preliminary objection incorporated into the Joint Reply of the 1st and 2nd Respondents filed on the 23rd day of April 2019 praying the Tribunal to strike out the petition for being incompetent on the following grounds:

1. *This petition is incompetent and consequently, this honourable tribunal lacks the jurisdiction to entertain the petition.*

PARTICULARS

(a) The heading of the petition does not relate to the election being complained about.

(b) The petition was not signed by the petitioners or any of their Solicitors contrary to paragraph 4 (3) (b) of the 1st of Schedule to the Electoral Act 2010 (as amended).

(c) That the signature which appears above the names of the seven (7) Solicitors listed in the petition does not represent the signature of a solicitor called to the bar in Nigeria.

(d) Paragraphs 6, 7,8,9,13,14,15,16,17, and 18 are complaints against person or persons who are not parties to the petition and ought to be struck out.

(d) That if the paragraphs listed in (d) above are struck out, then there are no facts in support of ground one of the petition which ground is liable to be struck out.

(e) A fortiori, paragraphs 23 & 24 of the written statement on Oath of Garba Bello Kebbe, S.M, S.S.U and AMS ought to be struck out.

(f) That the entire written statement on oath of 1. Garba Bello Kebbe, 2. S.M, 3. SSU, 4. AMS, 5. YUD, 6. SUN, 7. MAA, 8. B.BA, 9. JAT, 10. L.U.T and 11. FAM which are in respect of the general ELECTION to the seat of member of the State

House of Assembly Representing Sokoto South 1 Constituency of Sokoto State HELD on the 9th day of March, 2019 should also be struck out.
(g) That if these witness statements and the list of witnesses and list of documents are struck out, the petition is bare and liable to be struck out for incompetence.

The learned counsel to the 1st and 2nd Respondents in arguing grounds 1 (a), (f) and (g) of the preliminary objection submitted that a petitioner is expected to state clearly the election he is complaining of. In the present petition, the petitioners stated that their petition is in respect of the Election "TO THE SEAT OF MEMBER OF THE STATE HOUSE OF ASSEMBLY REPRESENTING SOKOTO SOUTH 1 CONSTITUENCY". In the meantime, the 1st respondent did not contest an election to the seat of member of House of Assembly Representing Sokoto South 1 Constituency in the election held on the 9th and 23rd day of March, 2019 or any other election. Accordingly, the petitioners have no cause of action against the 1st respondent in respect of the election for the seat of member representing Sokoto South I Constituency and he urged the Tribunal to so hold.

Learned counsel to the Petitioners in response to this submitted that the courts have held in a plethora of authorities that no error, omission or commission or mistake relating to form should be a ground to nullify or strike out a petition. According to him, the mistake, error or complaint referred to in the objection is the heading or title of the Petition and no more. The content of the Petition rightly referred to Kebbe Constituency of Sokoto State and the Respondents were not misled as they both responded to the Petition. In any case, the objection as to heading of the petition definitely did not touch the substance of the petition. He thus urged the Tribunal to hold that the interest of justice will not be served to nullify or strike out a petition for being wrongly headed or titled.

We are inclined to agree with the learned counsel to the Petitioners on this issue in the sense that the mistake only related to the heading of the Petition. In the body of the Petition itself, the reliefs sought and the grounds for the reliefs all stated that the petition was against the return of the 1st Respondent as the winner of the Kebbi Constituency of the Sokoto State House of Assembly. The Respondents responded to the Petition by filing Replies to same and did not inform the Tribunal how they were misled.

The court held in the case of: ***Bajoga v. Govt., F.R.N (2008) 1 NWLR (Pt. 1067) 85 at P. 123, paras. C – H*** that:

> *"The courts have in the past where a suit is brought by the wrong procedure instead of a more acceptable one, ordered that such procedure be converted to the appropriate one. The important thing is to let the other party know of the other's grievances. In the present case, the respondents did not complain of the title and were not misled or in any way prejudiced by such title which touches on the form the procedure is brought and the substance of the suit, and should not have brought the entire suit to a sudden end without the real issues being looked into. Any mistake as to form is an irregularity curable by an amendment, in line with Order 3 rules (1) and (2) of the Federal High Court Rules. I have earlier held in this judgment that as much as rules of court are to guide the courts to do justice, we must not slavishly and blindly apply them but once there is substantial compliance rather than strict use of prescribed forms, it is in order, holding otherwise would be denying a party prematurely the justice we are trying to do, without looking into the substantive issues before the court. Over adherence to form and procedure by the courts is no longer popular, but rather there is stress on doing substantial justice."*

By the foregoing, we hereby hold that striking out this petition and the entire witness statement on oath of 1.Garba Bello Kebbe, 2. S.M, 3. SSU, 4. AMS, 5. YUD, 6. SUN, 7. MAA, 8. B.BA, 9. JAT, 10. L.U.T and 11. FAM solely based on a mistake as to the heading of the petition and the said witnesses' statement on oath which did not mislead the Respondents or touch the substance of the petition will not meet the justice of this matter. In view of the above, grounds 1(a), (f) and (g) of the preliminary objection are hereby dismissed.

With respect to legs 1 (d) and (e) of the preliminary objection praying that Paragraphs 6,7,8,9,13,14,15,16,17, and 18 of the Petition and paragraphs 23 and 24 of the PW1's statement on oath are complaints against person or persons who are not parties to the petition and ought to be struck out. Learned counsel to the 1st and 2nd Respondents submitted that the law is trite that no court of justice is permitted to proceed against a party in a matter which may impugn or tarnish his character and reputation without making him a party to the action.

Learned counsel to the Petitioner in response to this submitted that the Electoral Act clearly enumerated those that can be joined in an election petition in S137 (2 and 3). There is nothing in the said section which suggests that any other person can be joined to the petition. The Petition is definitely not the criminal prosecution of anyone but complaints of what transpired in the election against the Respondents. The specific actions of the village head and other persons fingered in those paragraphs mentioned by the Respondents are not directly on trial here in the petition but the general conduct of the elections and the role of the Respondents thereof. Any other person may be subpoenaed by the Tribunal when needed but definitely cannot be made a party under the Electoral Act. He once again urged the Tribunal to dismiss the preliminary objection and hear the petition on its merits.

We have carefully perused paragraphs 6, 7, 8, 9, 13 and 14 of the Petition. A further reading of the Petition under the heading of FACTS ON WHICH THE PETITION IS BASED yielded some paragraphs which could be construed to be the gravamen of the 1st and 2nd Respondents complaints. What can be gleaned from those paragraphs is that paragraphs 6 (b), 7, 14, 15 and 17 and paragraphs 23 and 24 of the PW1's statement on oath contains criminal allegations against unidentified Village/District head of Ungushi, law enforcement/security agents and thugs. The District head of Ungushi was alleged to be the brother of the 1st Respondent. However, the PW1 under cross examination admitted not knowing whether the District Head of Ungushi is the 1st Respondent's brother.

It is trite law that no court of justice can proceed against a party or persons in a matter which may damnify his actions without making him a party thereto. Where criminal allegations are made against parties not joined in the petition, it renders the said allegations otiose and speculative. The Tribunal cannot make pronouncements against the conduct of such parties. This is because the fundamental rights of fair hearing of such persons will be breached should the Tribunal proceed against them in their absence; see the case of: ***Okoroaffia v Agwu (2008) 12NWLR PT 1100 PG 65 @ 197***. The court also held in the case of: ***APC V PDP (2015) 15 NWLR PT 1481 PG1 @ 66*** that:

> *"There is no vicarious liability in the realm of criminal law. Anyone who contravenes the law should carry his own cross. In this case, the 4th and 5th Respondents could not therefore be found answerable for the crimes alleged in the election petition to have been committed by their unknown*

soldiers and policemen. The court held further that the Nigerian Army or police cannot even be held vicariously liable for any offence allegedly committed by its members as such a person has to be fished out and tried."

The court also held in the case of: **Nwakwo V Yar'Adua (2010) 12 NWLR PT 1209 PG 518 @ 583** that:

"Where the conduct of a person who is not an agent of INEC is in question, it will be necessary to join such a party to the election petition in order to afford him fair hearing. However, where such a party is not joined, it will not result in the whole petition being struck out, only the particular allegations against such a party is liable to be struck out"

In view of the foregoing, paragraphs 6 (b), 7, 14, 15 and 17 under the facts on which the petition is based and paragraphs 24 (b, k, l) of the PW1's statement on oath are found to be defective for non-joinder of the nameless village/District of Ungushi, security/law enforcement agents and thugs. Same are hereby struck out. This means legs 1 (d) and (e) of the preliminary objection succeeds in part.

With respect to legs 1 (b) and (c) of the preliminary objection, learned counsel to the 1st and 2nd Respondent submitted that the petitioners herein did not present this petition upon fulfillment of the requisite condition precedent for presentation of petitions. In support of this, learned counsel referred the Tribunal to paragraph 4(b) of the First Schedule to the Electoral Act and submitted that it is clear that the petitioners did not sign the petition which is blameless provided their solicitor did. At the foot of the petition, there are listed the names of seven (7) solicitors on top of which appears a signature and a solicitor's seal belonging to PAUL M. KASIMANWUNA. However, there is no indication as to who among these seven solicitors signed the petition. Failure to sign the petition by the petitioners or any of the solicitors renders the petition invalid since an unsigned document is a worthless piece of paper.

According to the learned counsel, this Tribunal cannot by mere looking at the signature, determine who signed it without hearing some sort of evidence. That this petition having not been signed by the petitioners or an identifiable solicitor is not signed in law and is liable to be struck out. He therefore urged the Tribunal to hold

that the instant petition was not signed as mandated by paragraph 4 (3) (b) of the first schedule to the electoral act 2010 as amended and strike same out under paragraph 4 (7) for being defective and incompetent.

Learned counsel to the Petitioners in response submitted that it is crystal clear on the face of the petition that the stamp and/or seal of Paul M. Kasimanwuna, was affixed on the Petition and his name also listed as one of the counsels in the matter. It could therefore only be correct to say that he (Paul Kasimanwuna) also signed as could be deciphered from the signature. The only sin of the counsel was that he did not tick his name on that list of counsel to indicate that he was the one who signed it. According to the learned counsel, it is always presumed that the counsel who affixed his stamp and seal, is the person that signed the process. Learned counsel to the Petitioner submitted further that the failure to tick is an irregularity which he urged the tribunal not to allow to defeat the justice of this petition on the merits.

We have carefully considered that arguments of both parties in this case and scrutinized the Petition itself. A cursory look at page 16 of the Petition shows the following names listed under the signature:

Dr Garba Tetengi SAN.

Paul Kasim Esq.

Festus Akpoghalino Esq.

A.I. Aderogba.

Steve Emelieze Esq.

T.O.Adeboye Esq.

Daniel Akinwale Esq

City Law Firm,

(counsel to the Petitioner)

Clearly, there was no indication of the counsel who signed the Petition vide ticking though the stamp and seal of one Paul M. Kasimanwuna was affixed to the Petition. It is noteworthy that none of the names listed under the signature bore

Paul M. Kasimanwuna though there is one Paul Kasim Esq. This Tribunal was not informed that Paul Kasim Esq is the same person as Paul. M. Kasimanwuna. Learned counsel to the Petitioners in their written address attempted to cure this defect by submitting that the name of Paul M. Kasimanwuna can be deciphered from the list of counsels listed under the signature and the same counsel signed other processes where he ticked as the signatory.

We are however of the view that the submission of the learned counsel to the Petitioner with respect to the other documents signed by the said counsel and the fact that Paul Kasim Esq is the same as Paul M. Kasimanwuna is a matter of evidence which ought to have been canvassed at the trial as a counsel's address no matter how brilliant cannot take the place of legal proof. See the case of **MOHAMMED v. GBUGBU & ORS (2018) LPELR-44494(CA).**

The current position of the law as stated in the case of ***Nweke V FRN (Supra)*** is to the effect that it is not the duty of the Court to compare signatures in the record book in order to determine which particular legal practitioner signed a process. The process must, speak clearly for itself as to who signed it. Where a process fails to speak as to who signed it and the Court has to embark on a voyage of discovery, then that process cannot be regarded as properly signed.

We are thus inclined to follow the position of the Supreme Court in the case of ***Nweke V FRN (Supra)*** by holding that in as much as the counsel who signed the Petition did not tick to indicate he was the one who signed it then the Petition has not been properly signed and is therefore incompetent. The position of the courts has always been that an incompetent Petition is liable to be struck out, see the case of **AREGBESOLA & ORS v. OYINLOLA & ORS (2010) LPELR-3805(CA).**

Based on the above, we hereby uphold legs 1 (b) and (c) of the preliminary objection whereupon the Petition is declared incompetent.

For the avoidance of any doubt, legs 1(a), (f) and (g) of the Preliminary objection were dismissed. Legs (d) and (e) succeeded in part while legs 1(b) and (c) was upheld whereupon the Petition is hereby held incompetent.

Since the petition has been held to be incompetent, we are tempted to strike out the petition at this stage without going into the merits. However, in the very unlikely event that we are wrong in our decision on the matter being incompetent, to be on the safe side, we will still proceed to determine the petition on the merits.

However, before going into the merits of the case, it is proper to resolve some other ancillary issues raised by the parties.

The first ancillary issue raised by the learned counsel to the Petitioners is that none of the Respondents called any witness in support of their defence nor tendered any document. That they are therefore deemed to have abandoned their pleadings, having not led any evidence in support of same and the Tribunal has no option but to believe the petitioner's case in that regard on a minimal proof.

The question now is, can the Respondents be said to have abandoned their pleadings because they did not call witnesses in rebuttal? We must of necessity answer this question in the negative.

In the case of **Omisore V Aregbesola (2015) 15 NWLR (PT 1482) 205 @ 324,** the Supreme Court per Ogunbiyi JSC held that;

> *"It has long been settled that evidence obtained in cross examination on matters that are pleaded i.e on matters on which issues were joined is admissible thus the argument that the 3rd Respondent had no evidence before the Tribunal is incorrect. The Supreme Court went on further to hold that the fact of not calling any evidence by the 3rd Respondent did not affect his case adversely at all. In other words by the very act of cross examining the witnesses of the Petitioners, the 3rd Respondent has given evidence"*

Based on the above, we hereby hold that not calling evidence by the Respondents does not mean abandonment of pleadings since they cross examined the Petitioner's witnesses.

Learned counsel for the Petitioners also submitted that the Tribunal has no option but to believe the petitioner's case on a minimal proof since the Respondents did not call witnesses in rebuttal.

In the meantime, it is noteworthy that reliefs sought in an election petition are in the class of declaratory reliefs, they therefore carry a high burden of proof such that they cannot succeed merely on the admission of the Respondents thus a party claiming declaratory reliefs has the burden of proof to establish all the material allegations in the petition with credible, cogent, relevant and probable evidence to

the satisfaction of the Tribunal. This burden attains a higher pedestal in view of the fact that an election petition that challenges the result of an election is in actual fact that of a challenge to a status quo that is presumed in law to be valid.

The court held in the case of **CPC V INEC (2011) 18 NWLR (PT 1279) 493** that in a claim for declaratory reliefs, the onus is on the Plaintiff to establish his claim upon the strength of his case and not on the weakness of the case of the Defendant. The plaintiff must therefore satisfy the court upon the pleadings and cogent and credible evidence adduced by him that he is entitled to the declaration in his favour.

In the instant case, we have already held in an earlier part of this judgement that not calling evidence by the Respondents is not the same thing as abandonment of pleading consequently they cannot be held to have admitted the case of the Petitioners. Furthermore, in as much as the Respondents cross examined the witnesses of the Petitioner, they cannot be held not to have challenged the case of the Petitioner. It behoves the Petitioner to establish his own case to the satisfaction of the Tribunal.

We shall now resolve the remaining issues for determination posited by the Tribunal.

For the sake of clarity, the following are the remaining issues for determination in this petition after the 4th issue was withdrawn by the Petitioners;

1. *Whether the omission of the Petitioner's Counsel who affixed his stamp, seal and signed the petition, to tick his name among other names of counsel listed, will render the petition incompetent, even when same counsel has filed other processes wherein he signed and ticked his name as counsel to Petitioner.*
2. *Whether the return of the 1st Respondent as member representing Kebbe Constituency, Sokoto State, in the election held on the 23rd day of March 2019 ought not to be set aside on grounds of gross irregularities or substantial non-compliance with the provisions of the Electoral Act 2010 (as amended).*
3. *Whether the Petitioners have led sufficient and credible evidence before this Honourable Tribunal, to prove that the 1st Respondent was not duly elected or returned by majority of lawful votes cast at the election for the*

office of Member House of Assembly for Kebbe Constituency of Sokoto State, held on the 23rd day of March 2019.

It is noteworthy that the first issue is based on one of the issues already canvassed and determined under the preliminary objection. Based on the above, we hereby adopt our earlier reasoning and holding under the preliminary objection in determining the first issue.
In view of the foregoing, the first issue is hereby resolved against the Petitioners and the Petition is declared incompetent for lack of proper identification of the counsel who signed same vide ticking in line with extant laws.
However, we will still proceed to resolve issues 2 and 3 on their merits.

It is noteworthy that the learned counsel to the Petitioners sought the leave of the Tribunal to argue issues 2 and 3 together. He submitted that the petitioners, through the evidence of PW1, led cogent documentary and oral evidence in proof of this case as it relates to the allegation of non-compliance with INEC guidelines and rules regulating the conduct of the election. According to the learned counsel, this Tribunal has been empowered to nullify elections in any polling units, wards and Local Government where irregularities occurred.
Also according to the learned counsel, the documents tendered by PW1 emanated from the proper custody of the 3rd respondent and they did not deny or debunk its content during cross-examination. It is the duty of the party who opposes the facts contained in any evidence tendered before the court to either debunk same by cross-examination, or tender a contrary evidence to contradict same. Where he failed to so do the court will rely on the evidence before it to do justice. The court/tribunal will have no option but to believe the petitioner's case in that regard on a minimal proof. Thus, the 1st - 3rd Respondents having not called any witness they are deemed to have abandoned their pleadings.

He urged the Tribunal to rely on the documentary evidence and the oral testimony in support of same as true. The learned counsel submitted further that the petitioners have done all that is required of them by law, to show there was substantial non-compliance by pleading elaborately and elegantly the facts that are required to prove all the ingredients of the grounds alleged in their petition and also tendered documentary evidence for the tribunal to see and assist the tribunal in

arriving at a just decision as the justice of the case demands. He thus urged the tribunal to grant all the reliefs of the Petitioners, in the exercise of its power under the Electoral Act.

We have carefully perused the final address of the Petitioners, same failed to yield any argument in support of the 3rd issue which was to the effect that 1st Respondent was not duly elected or returned by majority of lawful votes cast at the election.

The learned counsel to the 1st and 2nd Respondents in response submitted with respect to the 2nd issue that once an election is conducted and the result announced by the Independent National Electoral Commission (3rd Respondent), the result so announced is sacrosanct and taken to be correct until the contrary is proved. It is trite law that results of election declared by Independent National Electoral Commission are presumed correct, authentic and genuine. See Section 168 (1) of the Evidence Act, 2011. Thus the petitioners challenging the result of an election have the burden of rebutting this presumption.

Learned counsel posed the question, how can this burden be discharged? He then submitted that the petitioner is required by law to discharge this burden by giving evidence to prove the non-compliance alleged, based on polling unit by polling unit, through the agents of the political party or an eye witness that was physically on ground and in true position to testify as to what transpired during election. This is because one witness cannot testify as to what transpired with respect to more than one polling unit at the same time, as he is not omnipresent. See **BUHARI v. INEC (2008) 36 (pt 1) NSCQR 475 @ 693.**

Learned counsel noted that in the instant petition, the sole witness called by the petitioner is one *Garba Bello Kebbe*, a collation Agent who stated in his witness deposition that all the information in his witness deposition on oath were information he got from the 2nd petitioners Agents. He also confirmed this statement during cross examination. The PW1 also admitted not visiting any of the 8 polling units where the alleged non-compliance took place thus the allegation of underage voting, ballot stuffing and all other allegations in the deposition of PW1 amounts to hearsay as no eye witness testified to confirm such allegation of non-compliance by any of the respondents. Learned counsel then submitted that the

evidence of PW1 in its entirety amounts to hearsay evidence and urged the Tribunal to strike out the written statement on oath of PW1 alongside the exhibits tendered through him as there is no oral evidence on which they can stand. If this is done, as it should, there will be no evidence in support of issue two.

In the light of the foregoing, he urged the Tribunal to hold that the return of the 1st Respondent as member representing Kebbe Constituency of Sokoto State in the election held on the 23rd day of March, 2019 is in substantial compliance with the provisions of the Electoral Act, 2010 as the petitioners have failed to prove substantial non-compliance with the provision of the Electoral Act, 2010 (as amended).

As earlier noted, the learned counsel to the 3rd Respondent's submissions is on all fours with that of the 1st and 2nd Respondents.

We shall however resolve issues 2 and 3 separately despite the fact that both counsels argued both together. With respect to the 2nd issue, i.e

> *"Whether the return of the 1st Respondent as member representing Kebbe Constituency, Sokoto State, in the election held on the 23rd day of March 2019 ought not to be set aside on grounds of gross irregularities or substantial non-compliance with the provisions of the Electoral Act 2010 (as amended)."*

It is noteworthy that to establish non-compliance with the provisions of the Electoral Act in the conduct of an election, the courts have consistently held that where a petitioner complains of non-compliance with the provisions of the Electoral Act 2010 as amended, he has a duty to prove it polling unit by polling unit, ward by ward. He must also establish that the non-compliance was substantial and that it affected the result of the election. It is only then that the Respondents are to lead evidence in rebuttal, see the case of: **PEOPLES DEMOCRATIC PARTY (PDP) v. INDEPENDENT NATIONAL ELECTORAL COMMISSION & ORS(2014) LPELR-23808(SC)**

Without doubt, there is a rebuttable presumption of regularity in the result declared by INEC as submitted by the learned counsel to the Respondents. The court held in the case of **UZU & ANOR V. OGBU & ORS (2012) LPELR-9775(CA) Per AGUBE, J.C.A.** that;

" there is a rebuttable presumption in favour of the correctness and authenticity of results declared by the 3rd Respondent and its Agents who are the statutory organs charged with the conduct of the disputed elections which is the subject of this Appeal. There are also authorities galore on the principle that the Presumption of correctness and authenticity of results declared by INEC (the 3rd Respondent herein) can only be rebutted by credible and cogent evidence elicited by the Petitioners/Appellants as in the instant case who had alleged in their pleadings that the election in Ishielu North State Constituency of Ebonyi State was characterized by electoral due process deficit as the results upon which the 1st Respondent was returned, was not a true reflection of the actual lawful votes cast or of what happened at the polling units complained of and questioned by the petitioner as they did not emerge from accredited voters in the ordinary course of the voting process. In other words, since they sought to impugn the results declared by INEC as being incorrect or unauthentic for the various reasons stated in a paragraphs 8 (d), 9(c); 10; 10 (1) to 10 (D)i; (E)i-v; 11(a)-(i); and 12(i)-(v) at pages 4 to 15 of the Records which contain the Petitioners/Appellants' Petition; and from all that can be gathered, they questioned the conduct of the election in 31 polling units of the five Wards of Nkalagu, Obeagu, Umuhuali, Amaezu and Iyonu on grounds of electoral malpractices and non-compliance with Electoral Act, 2010 (as Amended) and the Manual for Electoral Officials, 2011; the onus was therefore on them to elicit evidence to rebut the presumption of authenticity or correctness of the result of the election conducted in the disputed polling units in the wards afore-enumerated."

The question now is, can the Petitioners herein be said to have rebutted the presumption of regularity of the result declared by the 3rd Respondents in this case? We must of necessity once again answer this question in the negative. The Petitioners in an attempt to rebut the presumption called only one witness i.e the PW1. The said PW1 tendered Exhibits PP1, PP2, PP3, PP4, PP5, PP6, PP7, PP8, PPA1, PPA2, PPA3, PPA4, PPA5, PPA6, PPB which are the Forms EC8As and voter's registers for the disputed polling units. It is noteworthy that the PW1 merely tendered these documents during examination in chief without any demonstration as required by law.

It was under cross examination that he was shown Exhibits PP2 whereupon he confirmed that the score of APC in the Polling unit is 231, PDP 301 at Gwandi

Primary polling unit. He also confirmed that in Exhibit PP3 which is the result for Primary School Maikurfune, the PDP scored 182 while APC scored 155. In Exhibit PP1 to PP8 that of Ungushi Polling unit is not there. This is the sum total of the PW1's testimony with regards to all those documents.

As can be seen above, the PW1 did not even make any attempt to impugn the contents of the documents tendered by him to show the inaccuracies, acts of non-compliances and outright breaches or contraventions of extant electoral laws and regulations which attended the scores recorded therein in favour of the 1st and 2nd Respondents as alleged by the Petitioners. The PW1 merely dumped the documents on the Tribunal without trying to link each document to the area of the Petitioner's case complained as required by law. See the case of **OKEREKE v. UMAHI & ORS** where the court has this to say;

> *"Now on the issue of dumping of these documents on the Tribunal, this Court decided in replete of numerous authorities to the effect that in any case whether election or non-election matter, any party tendering documentary evidence has the task of linking such documents to the specific aspects of his case for which such documents so tendered by leading evidence of the purport of the document in relation to the aspect of his case. In other words, he should not merely dump them in the Court or Tribunal and expect the Tribunal or Court to embark on speculation in determining the purport for which it was tendered or to which aspect of the case such document relates, without being guided by any oral evidence led in open Court. Infact, this Court in the case of Action Congress of Nigeria (ACN) v. Lamido & others (2012) LPELR 782J (SC had this to say at page 38 per Fabiyi JSC:-"It is not in doubt that the stated Exhibits were not demonstrated in the open Court. They were the type of documents which this Court affirmed as rightly expunged by the Court of Appeal in Buhari v. INEC (2008) 19 NWLR (pt 1120) 246 at 414.This is so, as there is a dichotomy between admissibility of documents and the probative value to be based on relevance, probative value depends not only on relevant but also on proof. Evidence has probative value if it tends to prove an issue." I must say, that it is not the duty of a Court or Tribunal to act within the realm of conjecture in determining what a document so tendered relates to, or for what purpose*

it was meant to serve by tendering it, or to proceed to embark on making inquiry into the case outside the Court not even by examinatioin of such documents which are in evidence but not examined in open Court. A judge is an adjudicator and not an investigator. See Queen v. Wilcox (1961) 1 SCN LR 296; (1961) 1 All NLR 633, Dennis Ivienagor v. Henry Osala Bazuaye (1999) 6 SCNJ 235 at 243 Fawehinmi v. Akinlaja (2010) LPELR 8963. The petitioner's/appellant's failure to lead oral evidence to link the documents with what he pleaded in the petition therefore justifies the Tribunal to refuse to act on them as it is not the Tribunal's function to speculate on what such documents were meant to specifically establish or prove". Per SANUSI, J.S.C. (Pp. 65-67, Paras. D-C)

In the instant case, the petitioners failed to demonstrate to the Tribunal the inaccuracies alleged in the documents tendered. The sole witness called by the Petitioners did not highlight or point out a single inaccuracy during the trail. The only result before this Tribunal is that declared by the 3rd Respondent in this case which enjoys the presumption of regularity. We are therefore inclined to agree with the submissions of the learned counsel to the Respondents that the Petitioners herein have failed to rebut the presumption of regularity of the result declared by INEC.

Apart from the above, to establish non-compliance with provisions of the electoral Act 2010 as amended, the Petitioners must show that the non-compliance substantially affected the result of the election to his own detriment. The court held in the case of **Buhari v. INEC (2008) 4 NWLR (Pt. 1078) 546 at P. 633** that:

"Where a petitioner makes non-compliance with the Electoral Act the foundation of his complaint, he is fixed with the heavy burden to prove before the court, by cogent and compelling evidence that the non-compliance is of such a nature as to affect the result of the election. He must show and satisfy the court that the non-compliance substantially affected the result of the election to his disadvantage."

In the instant case, the PW1 tendered documents without demonstrating them to show the substantial non-compliance alleged. It is noteworthy that the PW1 is a collation agent of the Petitioners at Kebbe collation centre. The Petitioners failed to

call witnesses from each polling unit and ward to ward to establish the alleged non-compliance in those polling units. The PW1 admitted that he did not visit any of the 8 polling units where the alleged non-compliance took place and thus did not know what transpired at each of the polling units.

The learned counsel to the 1st and 2nd Respondents submitted further that the evidence of the PW1 should be classified as hearsay evidence liable to be struck out. This brings to fore what is hearsay evidence? The court held in the case of **DOMA & ANOR. v. INEC & ORS.(2012) LPELR-7822(SC)**:

> *"PW14 and PW44's testimony that there were malpractices in polling units they admitted they never went to is evidence of what they were told or what they heard from someone else. This is second-hand evidence thus clear hearsay evidence and it is inadmissible to prove that there were actually malpractices in the polling units they never went to. Hearsay evidence is thus inadmissible to prove that fact." Per RHODES-VIVOUR, J.C.A. (Pp.32-33, Paras.F-A"*

In the instant case, the PW1 admitted not visiting any of the 8 polling units in contention. He only visited his own polling unit where he voted before going to the collation centre to await results. He admitted that his party won in his own polling unit thus his said polling unit was not one of the polling units where the alleged infraction took place. The PW1 also honestly admitted that the content of his witness statement on oath are from the information he received from the Petitioner's agents who were at the polling units where the complaints emanated from. It is noteworthy that the said polling unit agents were never called as witnesses in this case. The PW1's evidence clearly falls under those classed as hearsay evidence which can never form the basis of a judgement. The PW1 not only failed to show that there was substantial non-compliance with the provisions of the Electoral Act; he also failed to show how the alleged non-compliance substantially affected the result of the election.

Based on the above, we hereby hold that the Petitioners herein failed to prove that the election and return of the 1st Respondent was invalid by reason of non-compliance with the provisions of the Electoral Act, 2010 (as amended) and the 3rd Respondent's Regulations and guidelines for Election Officials 2019.

In view of the foregoing, the 2nd issue is hereby resolved in favour of the Respondents.

With respect to the 3rd issue, we have earlier noted that the learned counsel to the Petitioners sought the leave of the Tribunal to argue issues 2 and 3 together but did not make any reference to the 3rd issue in the body of his final address. The learned counsel to the 1st and 2nd Respondents made his submissions with respect to issue 3 which we have already highlighted in this judgment.

In the instant case, we have already held that the evidence of the PW1 is hearsay. Incidentally, that was the only witness called by the Petitioners to prove their case. The PW1 tendered documents which were not made by him or made in his presence. The question now is, at what point can evidence amount to hearsay evidence of the documentary type? This question was answered in the case of **Adewale V Adeola (2015) LPELR-25972 (CA)** where the court held that;

> *"The question is whether he could have tendered those documents or exhibits as he did or give evidence in respect of those other wards relative to the election to which allegation of corrupt practices, falsification and irregularities were made. Decisions in Buhari V Obasanjo (2005) 13 NWLR PT 941 @317, Hashidu V Goje (2003) 15 NWLR PT 843 @ 400, Abubakar v Yar'Adua (2008) 19 NWLR PT 1120 @ 173…… all go to show that he cannot as such evidence from him would amount to hearsay evidence of documentary type. In other words, evidence of some other persons who are makers of those documents and who have personal knowledge of the contents of those documents are relevant and must be called" Per Hussaini JCA.*

In the instant case, the PW1 admitted not being present when the documents tendered by him were made though the petitioners were of the view that since the 3rd Respondents did not complain about the documents, they are admissible and reliable. The learned counsel to the petitioners did not advert his mind to the fact that admissibility of document is one thing and the weight to be attached to same is another. The court held in the case of **FADEBI & ANOR V AKINTAN & ORS (2017) LPELR-42129(CA) per Abdullahi JCA** as follows:

"I am in agreement with the learned counsel for the respondents that rule of relevancy governs the admissibility of documents but the weight to be attached to an admitted document is entirely a different kettle of fish. This is because to determine the weight to be attached , the judge will evaluate the documents vis a vis the facts pleaded and proved by other pieces of evidence. Evaluation of evidence goes beyond the realm of logic. It is a matter of law and facts"

We have held in an earlier part of this judgement that the PW1 did not link the documents tendered to particular areas of the petition or show the purport and import of tendering the said documents which in essence means the documents were dumped on the Tribunal. Thus having not been present when the documents were made, this means the documents falls within those classed as documentary hearsay thus of no evidential value.

Furthermore, to establish that the Respondents was not elected by majority of the lawful votes cast, the Petitioners must of necessity plead and lead cogent evidence to the existence of two sets of results emanating from the same election, see the case of **Abubakar v Yar'adua (2008) 19 NWLR (1120) 1 @155**.

Thus, from the pleadings filed and exchanged, it is incumbent on the petitioner to establish by credible evidence that the respondent did not score the majority of the lawful votes at the election but the petitioner. The petitioner is to plead and prove the votes cast at the various polling station, the votes illegally credited to the respondent ,the votes which ought to be deducted from the respondent to see if it will affect the result of the election, see the case of **Nadabo V Dabai (2011) 7 NWLR (PT 1245) 155 @ 177.**

In the instant case, the pleadings and evidence led by the Petitioners is devoid of any mention of two sets of results. The sole witness called by the Petitioners informed the Tribunal under cross examination that he is complaining of eight Polling units. He does not know the total number of registered voters or those who actually voted in the eight polling units. The content of his deposition were based on the information from his agents who were not called as witnesses. The documents tendered by him were not made in his presence.

It is noteworthy that the evidence of the said PW1 has already been held as hearsay evidence and the documents tendered by him held as documentary hearsay of no evidential value. The Petitioners did not tender two sets of results to show the existence of an authentic result and the one regarded as fake. The Petitioners did not plead or lead evidence to show numbers of votes with which they allegedly won the election by the majority.

In view of foregoing, we hereby hold that the Petitioners herein did not prove that the 1st Respondent was not duly elected and/ or duly returned elected by majority of lawful votes cast at the election held on the 9th day of march 2019 and the supplementary election held on 23rd March 2019 to the seat or office of member of the Sokoto State House of Assembly, Kebbe Constituency of Sokoto State.

Based on the above, the 3rd issue is a hereby resolved in favour of the Respondents.

Having resolved all the issues for determination in favour of the Respondents, we hold that this petition lacks merit and it is accordingly dismissed with N20, 000.00 (twenty thousand naira) costs in favour of each Respondent.

HON. JUSTICE P.A. AKHIHIERO

CHAIRMAN

HON. JUSTICE A.N. YAKUBU

1ST MEMBER

HIS WORSHIP S.T BELLO

2ND MEMBER

COUNSELS:

1. Steve Emelieze Esq…… PETITIONER
2. ChiefS. U. Nwoke……1ST& 2ND RESPONDENTS
3. Maurice C. Efobi Esq,….. ……..3RD RESPONDENT