

**IN THE DISRICT COURT OF BAUCHI STATE  
IN THE BAUCHI JUDICIAL DIVISION  
HOLDEN AT SMALL CLAIMS COURT NO 2 BAUCHI  
BEFORE HIS WORHIP ZAINAB M SHUAIBU (MRS)**

**SUIT NO/SCCBH/028/2026**

**BETWEEN**

**IDRIS ABDULLAHI ..... CLAIMANT**

**AND**

**BABANGIDA TADAKURA AND 3 OTHERS ..... DEFENDANT**

Parties absent

Appearances M I ABUBAKAR ESQ for the claimant

**JUDGEMENT**

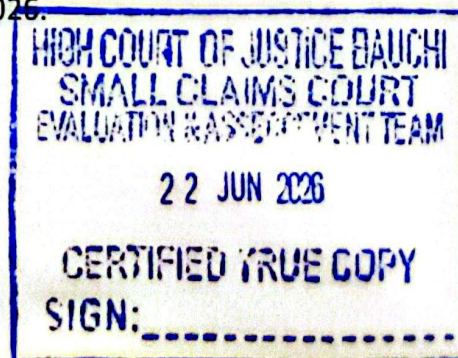
The claimant commenced this suit under the Bauchi state practice direction on small claims court no 2 of 2022, the claimant fills and filled form SCA 2 and 3 dated 10th day of February 2026, the defendant in this suit was served with the originating process of this court personally.

The claimant claim against the defendant is the sum of one million five hundred thousand naira only.

Before determine the main issue, I have to determine the preliminary objection first.

Learned counsel to the defendant filled a preliminary objection dated 25<sup>th</sup> day of February 2026 challenging this case on the following grounds.

- (1) That this suit constitutes a gross abuse of court process
- (2) That there is a pending and subsisting case between the same parties on the same subject matter and with the same particulars before sharia court Kafin Madaki, which suit was instituted earlier in time
- (3) That the said suit pending before sharia court Kafin Madaki between same parties in respect of the same subject matter was filed on the 5<sup>th</sup> January 2026 while the one before this honourable court the subject of this application was on the 10<sup>th</sup> February 2026.



- (4) That it is in the interest of justice that the matter before sharia court Kafin Madaki between the same parties and others are one action before this honourable court takes precedence and priority for not just being the first in time but also because it will effectively and effectually resolve all contending claims between the parties arising out of the transaction for the sale of the farmland in issue
- (5) That the institution of this action while the earlier suit is still pending amount to multiplicity of actions
- (6) That this honourable court lacks jurisdiction to entertain this matter in view of the pending earlier suit
- (7) That this suit is incompetent and liable to be dismissed.

In support of the application is 12 paragraph affidavit deposed to by Malam Nura Abubakar a litigation secretary in the chambers of Jis-Jim and co (Jama'a) chambers, they have filled a written address dated 25<sup>th</sup> day of February 2026, upon the received of a counter affidavit filled by the respondent we have equally reply on point of law dated 4<sup>th</sup> day of March 2026, finally urge the court to dismiss this case with cost.

The claimant/ respondent have filled a counter affidavit dated 26<sup>th</sup> day of February 2026 and filled on the same date, the counter affidavit is supported with 3 paragraph affidavit deposed to by Ahmed Rufai a litigation secretary in the law firm of Al baser and associates attached to the affidavit is one annexure marked as exhibit A, we have equally filled a written address dated 26<sup>th</sup> day of February 2026 and filled on the same day we humble adopt same as our oral argument and finally urge the court to dismiss the preliminary objection filled by the applicant.

COURT – before I proceed, I have to determine the preliminary objection filled by learned counsel to the 1<sup>st</sup> and 2<sup>rd</sup> defendant

After hearing the submission and argument of both counsel in this case and after taking into consideration all the process filled by both counsels, I think the germane question now is what is the merit of this application is their abuse of court process/

In the case of SARAHI VS KOTOYE (1992) 9 NWLR (PART 264) 156 where the supreme court stated,

that the employment of judicial process to the irritation and annoyance of the opponent and the efficient administration of justice and that such will arise in instituting a multiplicity of action on the same subject matter against the same opponent on the same issues.

It could be deduced from the decision of the supreme court that for there to be an abuse of court process, some indices must co-exist they are

- (1) Multiplicity of actions
- (2) Same subject matter
- (3) Same opponent
- (4) Same issues

What do I have in the instant case/

The parties in this suit no SCCBH/028/2026 BETWEEN IDRIS ABDULLAHI AND BABANGIDA TAKADAR AND 3 OTHERS, learned counsel to the defendant did not state the names of the parties, subject and did not attach any document to support his assertion, he only stated that the parties, subject matter are the same with the case before sharia court Kafin Madaki.

The SUPREME COURT in Kotoyes case held thus,

the blacks law dictionary 9<sup>th</sup> edition defines party as one by or against whom a lawsuit is brought a party to the lawsuit, there is no multiplicity of actions on the same matter between the same parties, thus there cannot be said to be an abuse of court process, vide SARAHI VS KOTOYE (supra).

Therefore, for this concept of abuse of court to avail the applicant in this case, he must cross the four hurdles stated above.

For the above reason, this application lacks in merit and it is hereby struck out for incompetency.

#### TESTIMONY OF THE CLAIMANT WITNESS BEFORE THE COURT

CW1 – by name IDRIS ABDULLAHI affirm and testified to the effect that he is the claimant in this suit the defendant came to me that he has a farmland for sale we mate and negotiated on the price at the rate of one million five hundred thousand naira only, someone later came and said the farmland does not belong to the defendant that he is the rightfully owner of the land.

They finally agreed between themselves that my money will be refund back to me, I contacted them on several occasion to refund back my money prove abortive, it's almost a year now since the incident occurred.

COURT – CW1 was stood down for cross examination

CROSS EXAMINATION by counsel to the first and second defendant

Cw1 inform the court that the transaction took place between him and the first and second defendant one year ago, the farmland was not handed over to him, I don't know if there is a suit instituted against the first and second defendant, we have made attempt to settle prove abortive.

CROSS EXAMINATION by counsel to the third and fourth defendant

Cw1 told the court that the transaction of the said farmland took place between him, the first and second defendant excluding the third and fourth defendant, they third and fourth defendants where not present when the one million five hundred thousand naira was paid to the first and second defendant.

CW2 – by name AUWAL ABDULLAHI affirm and testified to the effect that the defendant contacted the claimant for the sale of land we went together with him after their negotiation as agreed the claimant bought the land the claimant paid the sum of seven hundred naira for the first time and later balance the sum of eight hundred naira making the sum total of one million five hundred naira.

COURT – CW2 was stood down for cross examination

CROSS EXAMINATION by counsel to the first and second defendant

Cw2 told the court that I was not there when the transaction between the first and second defendant took place

NO RE EXAMINATION

CROSS EXAMINATION by counsel to the third and fourth defendant

Cw2 told the court that I was not there when the transaction took place and the payment of the money he was not there, the money was paid to the first defendant by name Babangida they third and fourth defendant where not there

NO RE EXAMINATION

CW3 – by name DANLADI JIBRIN affirm and testified to the effect that she stays at Ganjuwa local government arear of Bauchi state inform the court that the claimant by name Idris mate me that he has bought a farm land, I went with him for the Payment, he paid the sum of seven hundred thousand naira and later completed the sum of eight hundred naira making the total sim of one million five hundred thousand naira.

COURT – CW1 was stood down for cross examination

Cross examination BY COUNSEL to the first and second defendant CW3 told the court that the transaction between the claimant and defendant I was not there.

CROSS EXAMINATION by counsel to the third and fourth defendant CW3 told the court that I know everything about the transaction, I was present during the payment of the money, the payment was made to the first defendant not to the third and fourth defendant.

NO RE EXAMINATION

M I = that is the case of the claimant we humble apply to close our case

ABBAS IBRAHIM – we apply for an adjournment to open our defence

KASSEM INUWA – concede with the application made by learned counsel to the first and second defendant to open their defence

COURT = case adjourned 24<sup>th</sup> day of March 2026 for defence

On the 24<sup>th</sup> day of March when the matter came up for defence learned counsel to the first and second defendant ABBA IBRAHIM ESQ, the learned counsel to the third and fourth defendant KASSEM INUWA ESQ and the defendants were absent no reason or correspondent for their absent.

Learned counsel to the claimant M I ABUBAKAR ESQ apply that the right of the defendants to enter their defence be foreclosed same was granted as prayed and equally waived his right for final written address.

The matter was set down for judgement

**COURT DECISIONS –**

Having regard to the provision of ARTILE 8(2) OF THE BAUCHI STATE PRACTICE DIRECTION ON SMALL CLAIMS COURT NO 2 OF 2022. The issue that calls for determination in the circumstances of this case is

Whether the claimant has proved his case sufficiently to be entitled to a grant of his claim

It is an elementary principle of law that civil suits are determined upon preponderance of evidence and balance of probability. He who assert must prove to succeed in his claim THIS COURT REFER ITSELF TO THE CASE OF ISEOGBEKUN VS ADELAKN (2013) 2 NWLR PG 141.

In the instant suit the evidence proffered by cw1, cw2 and cw3 told the court that the transaction took place between him, the first and second defendant, during cross examination he inform the court that in all the process of the said transaction and payment the third and fourth defendants where not present.

Where the claimant has produced evidence in support of his case which prima facie will entitle him to the judgement of this court, the defendants will need to lay some evidences to enable the court to consider on whose side the case preponderates..... it is a well settled principle of law that civil cases generally are decided on the balance of probabilities THIS COURT REFER ITSELF TO THE CASE OF ALHAJI SURATU ADELEKE ABD 4 OTHERS VS SANUSI IYAND AND ANOR NSCQR VOL 6 (2006) PG 799 AT 815 – 816.

There is no place where the claimant witness testified to the effect the third and fourth defendant was present or involved during the said transaction and payment of the money for the land in question

In this instant suit the defendants have failed to appear to defend this suit., ample time and opportunity has been giving to them, they did fill form SCA for defence thereby leaving this court with no other evidence to preponderate the evidence proffered by the claimant, the balance of probabilities therefore tilts in favour of the claimant who has adduced evidence in support of his claim.

It is trite that evidence that is neither challenged nor debunked remains good and credible evidence which should be relied upon by the trial judge who would in turn ascribe probative value to it.

Having duly considered the evidence presented in support of the claimants claim and being satisfied with the facts, this honourable court there finds that the claimant has adduced sufficient evidence to entitle him to a grant of his claim before the court.

The lone issue for determination is resolved in favour of the claimant

In conclusion judgement is entered in favour of the claimant and I hereby ordered as follows,

- The first and second defendants are hereby ordered to pay the claimant the sum of one million five hundred thousand naira only
- The first and second defendants are ordered to pay the sum of fifty thousand naira as cost of action.

**APPEAL** – There is a right of appeal to the high court of justice Bauchi small claims court within 14 days from today

**ZAINAB M SHUAIBU (MRS)  
CHIEF MAGISTRATE**

