

GHANA / JUDGMENT

WILLIAMS AND OTHERS VRS. ARDAYFIO AND OTHERS (PA/0542/2023) [2024] GHAHC 107 (16 January 2024)

COURT
ghahcDECIDED
16 January 2024

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IN THE SUPERIOR COURT OF JUDICATURE IN THE HIGH COURT OF JUSTICE, PROBATE AND LETTERS OF ADMINISTRATION DIVISION 'COURT 3' HELD IN ACCRA ON TUESDAY THE 16TH DAY OF JANUARY, 2024 BEFORE HER LADYSHIP JUSTICE SARAH ARYEE (MRS.), J. GODLOVE WILLIAMS & 5 ORS.

- PLAINTIFFS SUIT NO. PA/0542/2023 VRS. PROFESSOR DAVIE ARDAYFIO & 2 ORS.

- DEFENDANTS =====

PARTIES: 2ND PLAINTIFF PRESENT, 1ST, 3RD, 4TH, 5TH AND 6TH PLAINTIFFS
REPRESENTED BY JOSEPH ALLOTEY ADDO 2ND DEFENDANT PRESENT 1ST AND 3RD
DEFENDANTS REPRESENTED BY EBENEZER LAMPTEY WILLIAMS COUNSEL: GEORGE
AGBEKO FOR THE PLAINTIFFS PRESENT PRINCE BENSON MANKOTAM FOR THE
DEFENDANTS PRESENT R U L I N G

..... The writ was issued on the
10th of March 2023 accompanied with a Statement of Claim. 1 The plaintiffs says they are
children of the late Joseph Collins Williams. The 1st defendant is an executor whilst the 2nd
and 3rd defendants are also children of the deceased. They claim the following reliefs;

- a) A declaration that the document dated 27th September, 2014 alleged to be the purported last Will and Testament of the late Joseph Collins Williams (deceased) is invalid null and void and of no legal effect.
- b) A declaration the late Joseph Collin Williams never executed a Will properly so called and therefore died interstate and his estate falls to be distributed under interstate succession Law 1985 (PNDC Law 111)
- c) A declaration that Samuel Lamptey Williams and Winnifred Williams have no right to lock the church building which forms part of the estate of Joseph Collins Williams (deceased)

- d) An order directed at the Police (Dansoman Police Station to release the keys and the open the church building for members to worship and fellowship at the church (Truth and Life Ministry) until the final determination of the suit.
- e) An order directed at the 1st Defendant restraining him from applying for probate of the purported Will of Joseph Collins Williams allegedly executed on and dated 23rd September, 2014 until the final determination of the suit
- f) An order of perpetual injunction restraining the defendants particularly 2nd and 3rd defendants their assigns, privies, representatives, workmen, hirelings from interfering with the estate of Joseph Collins Williams
- g) Any other reliefs as the court deems fit and just The instant application was filed by the plaintiffs on the 17th of May 2023 for Interlocutory Injunction to restrain the 2nd and 3rd defendants from further interfering with the operation of the church (Truth and Life Ministry). In support of the application, the applicant deposes that there is an alleged Will of the deceased which is yet to be probated but the 2nd and 3rd defendants have taken over the property and prevented other beneficiaries including the plaintiffs from having access to the property. 2 They said as a result of ongoing disagreement between the parties, the Police intervened to maintain Law and Order. The keys to the church building are in the custody of the Police. The defendants filed an affidavit opposing the application. The defendants depose that after an application for Probate was filed disagreements ensued leading to fights. The elders and pastors of the Church used the pulpit to insult the 2nd and 3rd defendants leading to the Police locking up the building wherein the Church worshiped to maintain peace and security in December 2022. The problems that led to the lock up of the premises in 2022, persists. Both parties agree that the Church was locked up by the Police to maintain peace, law and order. This was done before the parties came to court. ORDER 25 RULE 1 CI 47 Application for Interlocutory Injunction is guided by Order 25 rule 1(1) of the High Court (Civil Procedure) Rules 2004 (C.I 47) which provides as follows: The Court may grant an injunction by an interlocutory order in all cases in which it appears to the court to be just or convenient to do so, and the order may be made either unconditionally or upon such terms and conditions as the Court considers just. The case of FRIMPONG VRS NANA ASARE OBENG II (1974) 1 GLR 16 is to the effect that the court should consider the hardship that would be caused if the application is granted or refused and also the court should consider whether it was just and convenient to grant this application. APPLICABLE RULES OF PROCEDURE AND CASE LAW The Plaintiffs' application is for an order to restrain the 2ND and 3rd defendants, their agents and assigns from interfering with he operation of the Church (Truth and Life Ministry). In their affidavit in support, the plaintiffs depose in paragraph 22, 22. that as a result of this unlawful conduct, the Police intervened to maintain law and order to the effect that the key's to the church building are currently in the custody of the Police. (emphasis mine) 3 The law on interlocutory injunctions by Dr. Date-Bah JSC in the case of WELFORD QUARCOO VRS. ATTORNEY GENERAL & THE ELECTORAL COMMISSION [2012] 1 SCGLR 259, was restated by your Lordships in the recent case of

GHANA INDEPENDENT BROADCASTERS ASSOCIATION (No.1) VRS. ATTORNEY-GENERAL & NATIONAL MEDIA COMMISSION (No. 1) (2017-2020) 1 SCGLR 498 at page 501, that: “It has always been my understanding that the requirements for the grant of an interlocutory injunction are; first, that the Applicant must establish that there is a serious question to be tried; secondly that he or she would suffer irreparable damage which cannot be remedied by the award of damages, unless the Interlocutory Injunction is granted; and finally that the balance of convenience is in favour of granting him or her the Interlocutory Injunction. The balance of convenience, of course, means weighing up the disadvantages of granting the relief against the disadvantages of not granting the relief.....” In the oft quoted case of VANDERPUYE VRS. NARTEY (1971) 1 GLR 428, the Court of Appeal held that the governing principle applicable for the grant of Interlocutory reliefs is whether on the face of the affidavits there is the need to preserve the status quo in order to avoid irreparable damage to the Applicant. As stated above, both parties in the present suit agree that the Church was locked up to maintain peace and order. CONSIDERATION OF THE APPLICATION After a careful consideration of the pleadings, the motion together with the affidavit in support, statement of case filed by the Applicant and exhibits, the affidavit in opposition, statement of case and exhibits filed by the defence, I find that there are serious issues to be tried. Further, both parties admit to there existing several wranglings among them leading to the closure of 4 the church and the keys being kept in the custody of the police. Exhibit 2 written on the 18th of January 2023, before the Writ was issued informs the court that the conflicts still persists. There is no evidence the matters that led to the closure of the church have been resolved. Until the issues are resolved, opening the church now, in my candid opinion, will only breed chaos.

CONCLUSION

In the circumstances, the application for Interlocutory Injunction is hereby refused. The matter is for CMC. All efforts should be put together for a speedy hearing of the matter. (SGD) SARAH ARYEE (MRS.) J, JUSTICE OF THE HIGH COURT 5

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Prepared on 26 October 2026 · Esheria