

GHANA / JUDGMENT

Ayittah and 5 Others Vrs Attorney General and 2 Others [2023]

GHAHC 62 (20 January 2023)

COURT
ghahcDECIDED
20 January 2023

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IN THE SUPERIOR COURT OF JUDICATURE, IN THE HIGH COURT OF JUSTICE, HELD IN TEMA, ON FRIDAY THE 20TH DAY OF JANUARY 2023 BEFORE HER LADYSHIP JUSTICE RITA AGYEMAN-BUDU (MRS).

Time: 9:49 am

SUIT NO: E1/075/2022

MESHACK AYITTAH & 5 ORS.

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PLAINTIFFS

VRS

THE ATTORNEY GENERAL & 2 ORS. - DEFENDANTS

PARTIES:

1st, 4th and 5th Plaintiffs – Absent

2nd, 3rd and 6th Plaintiffs -Present

Defendants – Absent

LEGAL REPRESENTATION

Ms. Abigail Ampofo holding brief for Mr. James Mensah Kulley for the Plaintiffs – Present

Mr. Nicholas Bartels for the 1st Defendant - Present

Mr. Bright Amu holding brief for Mr. Prince Kwaku Hodo for the 2nd and 3rd Defendants- Absent

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RULING

===== 1 | E1/075/2022 This Ruling is in respect of Motion on Notice to set aside the Writ of Summons and Statement of Claim served on the 2nd Defendant and to strike out the 3rd Defendant as a party. This was supported by an Affidavit stating among others this Court's jurisdiction has been wrongly invoked by the Plaintiff/Respondent against 2nd Defendant/Applicant in that Plaintiff/Respondent has failed to or comply with the statutory obligation and condition precedent before issuing the Writ and Statement of Claim which implies that the Writ and Statement of Claim issued at the Registry of this Court at the behest of Plaintiff/Respondent against the 2nd Defendant/Applicant is in breach of the Local Governance Act 2016 (Act 936) hence the issuance of the service of the Writ and Statement of Claim on 2nd Defendant/Applicant is void. They further aver that the 3rd Defendant/Applicant is not a proper person to sue since he is acting position and the Chieftaincy Act 2008 (Act 759) describes the proper person to sue in an action against a body such as the Ningo Traditional Council. For this reason, the 3rd Defendant/Applicant ought to be struck out as a party to this suit. In opposing this Application, Plaintiffs/Respondents aver that the action brought against the Office of the Acting President is proper and in conformity with the Chieftaincy Act 2008 (Act 759). They also aver that the 3rd Defendant's presence is necessary for all matters in dispute. 2 | E1/075/2022 Paragraph 18 of Plaintiffs'/Respondents' Affidavit in Opposition states: That the Plaintiffs in their Statement of Claim pleaded facts directed at the Ningo Traditional Council and which shows the cause of action against the Council and which will form the basis for joining the Council to this suit, should the Court come to the conclusion that it is the Ningo Traditional Council which should be a proper party and not the Acting President of the Ningo Traditional Council. After reading the Motion with its Supporting Affidavit as well as the Affidavit in Opposition and after hearing the legal argument of respective counsel. I am of the view that it is procedurally wrong to issue the writ of summons against the 2nd Defendant- Ningo Prampram District Assembly without recourse to the provision of the Local Governance Act. Also the 3rd Defendant is also not properly joined in this suit. In that, per the title of the suit he is the Acting President of the District Assembly which means he is not the substantive president and that he is in acting position. For these reasons, I grant the Motion to set aside the Writ of Summons and Statement of Claim against the 2nd Defendant Ningo Prampram District Assembly and also misjoin the said Acting President of the Ningo Traditional Council. There is no order as to cost. H/L: RITA AGYEMAN-BUDU (MRS) (JUSTICE OF THE HIGH COURT) sb.a 3 | E1/075/2022

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Prepared on 29 October 2026 · Esheria