

GHANA / JUDGMENT

Ayittah and 5 Others Vrs Attorney General and 2 Others [2023] GHAHC 80 (23 June 2023)

[2023] GHAHC 80

COURT

High Court

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IN THE SUPERIOR COURT OF JUDICATURE, IN THE HIGH COURT OF
JUSTICE, HELD IN TEMA, ON FRIDAY THE 23RD DAY OF JUNE 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

===== This Ruling is in respect of Motion on Notice for Plaintiffs to provide further and better particulars of the parties. This was filed on the 22nd March, 2023 by Counsel for and on behalf of 1st Defendant/Applicant herein, the Attorney General. In the Supporting Affidavit the main thrust of this Application is stated in paragraph 8 as follows: Paragraph 8 That the Plaintiffs/Respondents joined the 1st Defendant/Applicant to the instant suit because of a billboard mounted on their parcel of land with the inscription “Agenda 111, Project Prampram District Hospital, Employer: Government of Ghana, Contractor ; Shapoorji Pallonji Ghana Ltd, Consultant Indegene Associates Limited, Project Manager ; Hospital Infrastructure Group Ltd. 1st Defendant/Applicant states in paragraph 18 of the Affidavit in Support that: “That in the circumstance the Hon. Attorney General is unable to request for information from the appropriate MDA to mount a defence in respect of the averments contained in the Plaintiffs/ Respondents Writ of Summons and Statement of Claim” They are therefore praying for an Order directing the Plaintiffs/Respondents to provide further and better particulars of the responsible MDA to warrant the 1st Defendant/Applicant a necessary party in the instant suit. 3 In opposing this Application, Plaintiffs/Respondents aver that Plaintiffs/Respondents’ cause of action is against the State which is the employer of the contractor on the Hospital Project and the Attorney General is by law mandated to defend the State. Paragraph 14 states: That on the Agenda 111 home page (www.agenda111gh.com/projects), it is provided that the Agenda 111 project shall be executed under the office of the President and an eight (8) member Project Coordinating Committee (PCC) set up with the following members; Chief of Staff, Office of the President (Chair Person), Minister of Finance, Minister of Health, Minister of Local Government and Rural Development, Minister of Works and Housing , Deputy Chief of Staff (Operation), Presidential Advisor on Health and C. E. O , Ghana Infrastructure Investment Fund. They further aver that the Agenda111 is a popular Government project which is known to the 1st Defendant/Applicant and as such its internal procedures will direct it in respect of information required to file all necessary processes in this suit. Respective Counsel of Parties made their legal submission in respect of the instant Application. Counsel for 1st Defendant/Applicant in his legal submission in respect of this Motion contends that Plaintiffs/Respondents have not stated the committee that contracted the said contractor and that their enquires actually provides otherwise. Thus, if Plaintiffs/Respondents honestly believe that this committee is responsible for contracting the contractor, then Plaintiffs ought to amend their Statement of Claim and depose to this so they can respond appropriately to the claim in their defence. 4 Counsel for Plaintiffs/Respondents also in her legal submission contend, refers to Article 88 of the 1992 constitution which is basically that the Attorney General shall be responsible for the institution and conduct of Civil Cases on behalf of the State and so all that 1st Defendant/Applicant needs to do is to obtain any information they require from the District Assembly. After analyzing the evidence adduced in this Application, I am of the view that the information sought by 1st Defendant/Applicant can be easily obtained from the District Assembly which happens to be an Agent of the Government. Again, in my view it does not lie in the mouth of one party in a suit to change the pleading of another party as

Counsel for 1st Defendant/Applicant is suggesting. I deem this Application as incompetent and strike out same. Defendant is ordered to file their Defence in this suit. H/L: RITA AGYEMAN-BUDU (MRS) (JUSTICE OF THE HIGH COURT) 4

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Prepared on 29 October 2026 · Esheria