

IN THE CIRCUIT COURT OF JUSTICE, SITTING AT ASHAIMAN ON  
MONDAY THE 19<sup>TH</sup> DAY OF DECEMBER, 2022. BEFORE HIS  
HONOUR SIMON GAGA

SUIT NO. C2/27/22

FRANK ADETSI  
H/NO. 13, NII AJERE STREET  
TESHIE, ACCRA

} PLAINTIFF/APPLICANT

VRS

MENSAH AHIAGA  
TIMBER MARKET  
STORE NO. M 22  
ASHAIMAN, ACCRA

} DEFENDANT/RESPONDENT

---

**MOTION ON NOTICE FOR INTERLOCUTORY INJUNCTION**

---

*Order 25 rule 1(1) of the CI 47 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 said terms and conditions as the Court considers just.”*

The purpose of an interim injunction has been outlined in the case of *Owusu v. Owusu Ansah (2007/2008) SCGLR 870*, which at holding (1) states as follows;

*“The fundamental principle in application for interim injunction is whether the Applicant has a legal right at law or in equity, which the Court ought to protect by maintaining the status quo until the final determination of the action on its merits. This could only be determined by considering the pleadings and affidavit evidence before the Court.”*

See also the case of *Ekwam v. Pianim (1996-1997) SCGLR 117*.

On the 23<sup>rd</sup> day of March, 2022. The Plaintiff/Applicant filed Writ at this Court claiming the following reliefs against the Defendant/Respondent.

- a. Defendant to render accounts from December, 2022 to December, 2021.
- b. An Order of Injunction to restrain the Defendant from entering the said shop.
- c. An Order to eject the Defendant and terminate his appointment.
- d. Cost.

It is as a result of the reliefs being sought that the Plaintiff/Applicant brought this application which is a discretionary remedy.

The question one may ask is that, is the Court going to grant or refuse the application for interim injunction. One of the requirements for granting of such an application is that the Applicants must establish that there is a serious question of law for the Court to determine. The Court also takes the following guidelines into consideration toward it in her decision.

- a. Whether on the balance of convenience the Applicant would suffer irreparable injury or which could not be adequately be compensated for in damages.
- b. Whether the application is not frivolous or vexatious.
- c. Whether on the face of the exhibits and affidavits, there is the need to maintain the status quo *ante* pending the determination of the case.
- d. Whether the Applicant discloses a prima facie case for the purpose of preserving the status quo.

See the following cases;

1. *Kwaku Sarfo Kwarteng v. Kwame Yeboah Afari (2013) 54 GMJ 195 CA*
2. *Peterson v. Kusi (2010) 26 GMJ 83 CA.*
3. *Poutney v. Doegah (1987-1988) I GLR 111 CA*
4. *Welford Quarcoo v. Attorney General and Another (2012) 15 GLR 259.*

It is very interesting to note that even though both parties were represented they allowed the Court to determine the application based on affidavit evidence. While the Applicant claims that he is the owner of the store number M22 and never sold same to the Defendant, the Respondent on the other hand also refuted the claim of the Applicant that he bought the disputed store from the Applicant.

The Plaintiff/Applicant deposed in paragraphs 8, 9 and 10 as follows;

8. That I have never sold it to him.
9. That the store does not belong to the Defendant.
10. That the Defendant has not rendered any account to me for operating the machine from December 2021 to May 2022.

However, the Plaintiff on relief (a) of his Writ of Summons and the Statement of Claim states as follows,

- (a) “Defendant to render accounts from December 2020 to December 2021.

The Applicant tendered Exhibits A, B, C and D to show his ownership of the disputed storeroom and therefore invited the Court to injunct the Respondent his assigns, etc., from operating the disputed storeroom.

The Respondent deposed to an affidavit in opposition and questioned the Title of the Applicant to the disputed storeroom and the machines therein. According to the Respondent, the Applicant sold the shop and the two fish mill machines to him in 2008 at the cost of Two Thousand Four Hundred Ghana Cedis (GH¢2,400.00) which he paid for in three (3) installments.

According to the Respondent, he has exercised overt act of ownership of the shop since 2008 by registering same with Certificate No. BM-36, 208 D and payment of statutory fees all in his name. he also tendered Exhibits A, B, C, to show his ownership of the shop.

I have examined all the processes filed in this case by both the Applicant and the Respondent. I am of the view that the Applicant has not convinced the Court about what period that the Respondent is to render

accounts to him, his overt control of the disputed store and the hardship it has caused him to warrant the injunction on the Respondent. I therefore dismiss the application. I award cost of One Thousand Ghana Cedis (GH¢1,000.00) against the Applicant.

(SGD) (H/H) SIMON GAGA  
(CIRCUIT COURT JUDGE)

1. COUNSEL FOR APPLICANT
2. COUNSEL FOR RESPONDENT

OAAQ/.