

IN THE CIRCUIT COURT HELD AT DANSOMAN ON TUESDAY, THE 18TH
DAY OF JULY, 2023 BEFORE HER HONOUR HALIMAH EL-ALAWA
ABDUL-BAASIT, CIRCUIT COURT JUDGE

IN THE MATTER OF THE CHILDREN'S ACT, 1998 (ACT 560)

AND

IN THE MATTER OF AN APPLICATION FOR CUSTODY OF KEZIA QUAYE
BY HER MATERNAL AUNT, OLIVIA ABAKAH THOMPSON THROUGH
HER LAWFUL ATTORNEY, DON ADU-HENE LORD KWAME.

SUIT NO.: CCD/C6/05/23

OLIVIA ABAKAH THOMPSON ... APPLICANT
PER HER LAWFUL ATTORNEY
DON ADU-HENE LORD KWAME
OF DANSOMAN.

VS.

JOHN NTOW QUAYE ... RESPONDENT
OF HOUSE NUMBER 2A/3
WHINDO-TAKORADI

RULING:

MOTION ON NOTICE FOR AN ORDER FOR GRANT OF CUSTODY

Background:

The Applicant on the 26/6/23, through her Lawful Attorney filed an application praying for an Order for the Grant of Custody of Kezia Quaye (hereinafter referred to as the 'Child'). In the Affidavit in Support of the Application, the Deponent, being the Lawful Attorney deposed that the Applicant herein is the

maternal aunt of the Child who was born on 15th day of May, 2009. He deposed further that the biological mother of the Child, who was a sister to the Applicant died on the 1st day of July 2012 at House Number S.119/1 Shama, Western Region and was known and called Sofia Abakah Thompson prior to her death. He stated further that after the death of the Child's mother, the Applicant became a guardian to the Child and took care of the Child together with the Respondent who is the biological father of the Child. He again deposed that the Respondent is currently bedridden from stroke for the past Six (6) years and it has become difficult for him to support the child.

According to the Deponent, the Applicant currently resides at Las Marza's 8 Bajo Derech A Santander Cantabila, Spain and has been remitting the child regularly for her upkeep and maintenance through the Respondent. He concluded by stating that the Applicant has applied for grant of custody of Keziah Quaye to enable her have custody of her and provide adequate care for her in Spain. On the 26/6/23, the Respondent also filed an Affidavit supporting the Application and he deposed to the fact that he is the biological father of the Child herein and confirmed that the Applicant herein is his sister in-law and the biological sister of his late wife who was the biological mother of the Child herein. He deposed further that the Child has shown interest in joining her aunt in Spain since he has been bedridden with stroke for the past Six (6) years. The Respondent further confirmed that the Applicant has been remitting the child regularly for the upkeep, maintenance and has been providing for all her physical and material needs. He therefore has no objection to her request for custody and he therefore gives his consent and approval for grant of custody to the Applicant herein.

Analysis

In view of the processes filed, the main issue for determination is *whether or not the Applicant ought to be granted custody of the Child herein*. It must be stated that Section 43 of the Children's Act, 1998 (Act 560) provides that *'a parent, family member or any person who is raising a child may apply to a Family Tribunal for custody of the child'*. The evidence before this Court shows the Applicant herein has been responsible for the upkeep of the Child since the death of her biological mother as well as upon the illness of her biological father who is the Respondent herein. Section 2 (1) of Act 560 states that *'the best interest of the child shall be paramount in any matter concerning a child'* and Section 2 (2) also provides that *'the best interest of the child shall be the primary consideration by any Court, person, institution or other body in any matter concerned with a child'*. Thus, the onus of lies on the court to determine whether granting custody to the Applicant will be in the best interest of the child.

On the totality of evidence before the court, the court is of the opinion that the custody of the child is determined by the overall best interests of the child and it is evident that living abroad, specifically in Spain will expose the child to a better life including but not limited to adequate educational, health facilities and other necessities of life.

BY COURT:

Upon consideration of the Application, the evidence before the Court, the testimony of Parties, as well as the independent views expressed by the child, the Court is satisfied that it will be in the best interest of the child to grant this instant Application. Thus, pursuant **Section 43 and 45 of the Children's Act, 1998 (Act 560)**, the Application for the Grant of custody of **Kezia Quaye** to their

maternal aunt, Olivia Abakah Thompson is hereby granted and the Registrar is to draft the necessary Orders.

**SGD.
H/H HALIMAH EL-ALAWA ABDUL-
BAASIT.
CIRCUIT COURT JUDGE**