

IN THE CIRCUIT COURT HELD IN ACCRA ON 2ND DAY OF MARCH, 2023
BEFORE HIS HONOUR SAMUEL BRIGHT ACQUAH, CIRCUIT COURT JUDGE

SUIT NO. C11/16/2023

1. EMMANUEL CHIBUZOR NOUBUISI

2. MOSES EDEH

3. ALEXANDER EKE CHUKWU === PLAINTIFFS

VRS

1. ALHAJI SURAKAT LAWAL

2. CHIEF KIZITO OBIORA

3. MR MOSES TIMOTHY OHWARO === RESPONDENTS
AND

1. CHIEF GODWIN UCHE ANYAOGU

2. CHIEF PATRICK NWACHUKU === APPLICANTS

MOTION ON NOTICE FOR JOINDER OF PARTIES PURSUANT TO ORDER 4
RULE 3(1) OF CI 47.

Plaintiffs in this suit is in this court for the following reliefs:

- (a) Declaration that the IGBO Community Ghana is a principal member of the ALL NIGERIAN Community Ghana per 2019 constitution as amended of this ALL NIGERIAN COMMUNITY GHANA.
- (b) An order directed at the defendants not to take any action directly and indirectly in violation of the Constitution of the ALL NIGERIAN COMMUNITY GH by ensuring that the IGBO Community GH remains the only recognized IGBO COMMUNITY body affiliated to the ALL NIGERIAN COMMUNITY GH.

- (c) An order directed at the Defendants to work with the provisions of the Constitution of the ALL NIGERIAN COMMUNITY-GH by proceeding with inauguration of the nominated executives from the four recognized bodies recognized by the constitution of the ALL NIGERIAN COMMUNITY GH.
- (d) An order of perpetual injunction restraining the Defendants whether by themselves, privies, assigns, friends and anyone remotely connected with them from installation of new executives, for the ALL NIGERIAN COMMUNITY GH without the nominated members of the IGBO COMMUNITY GH.
- (e) Legal fees and Costs.

1st DEFENDANT'S COUNTERCLAIM:

The defendants uphold to their statement of claim and counter claim as follows:

- (a) An order of this Honourable court directing the plaintiffs to resolve its internal crises for the purpose of presenting a unanimous list of candidates to fill the vacant offices reserved for the IGBO Community GH within the ALL NIGERIAN COMMUNITY GH.
- (b) Cost of litigation against the plaintiffs to be assessed with current GH Bar Association scale of fees.
- (c) Any further or other reliefs from the court.

The applicants in this motion are coming under ORDER 4 RULE 3(1) OF CI 47 which states as follows:

- (1) Subject to rule 4 of this order, two or more persons may be joined together in the same action as plaintiffs or as defendants without leave of court, where

- (a) If separate actions were brought by or against each of them, some common question of law or fact would arise in all the actions, and
- (b) all rights to relief claimed in the action whether they are joint, several or in the alternative are in respect of or arise out of the same transaction or series of transactions.

Sub Rule 4 of ORDER 4 is where the court may order separate trials.

Mode of application for joinder order 4 rule 5 (4) An application by any person for an order to add that person as a party to an action shall be made by a motion on notice supported by an affidavit, showing the person's interest in the matter in dispute before or at the trial.

TEST APPLIED BY COURT IN JOINDER APPLICATION

The test applied by our court's in determining whether a person should be joined to an action or not is that stated by DENNING MR in the case of **GURTNER V CIRCUIT AND ANOTHER 2 QB 587 at 598:-**

Where two parties are in dispute in an action at law and the determination of the dispute will directly affect a third person in his legal rights or in his pocket in that he will be bound to foot the bill, then the court in its discretion may allow him to be added as a party on such terms as it thinks fit. By doing, the court achieves the object of the rule. It enables all matters in dispute be effectually and completely determined and adjudicated upon between all those strictly concerned in the outcome.

In SAI V TSURU III (2010) SCGLR 762 – SC

The test of whether the joinder will ensure that all matters in dispute are completely determined, the court has the jurisdiction to join a person whose presence is necessary

for the determination of the issues in dispute – see also **SAM V ATTORNEY GENERAL (2000) SCGLR 102**

The applicants in this joinder application are said to be IGBOs who ordinarily should have joined the parties who are also executive members of the IGBO COMMUNITY GH but decided to join the defendants, this means the applicants herein thinks their interest cannot be supported by the plaintiffs but rather the defendants.

The applicants herein might be a rival group within the IGBO COMMUNITY GH who also wants their voices to be heard through this action. Plaintiffs in this action in their reliefs (d) partly reads ---- by ensuring that the IGBO COMMUNITY GH remains the only recognized IGBO COMMUNITY being affiliated to the ALL Nigerian community GH.

This relief the court thinks triggered this joinder application and cannot be whittled down. On the face of the records before the court now, applicants think any judgments, ruling, orders that the court will take will affect them directly or indirectly.

The applicants if not allowed to be heard through this medium will take another action against especially the plaintiffs, and for all you know some parties especially the defendants may join them in that action which may have its own consequences – LIS ALIBI PENDENS

So in order to avoid any multiplicity of trials and unnecessary delays with possible different judgments and to deal with all the matters in one forum, the application is granted. Applicants are allowed to join the action. It will be easier to join the applicants and later if found unnecessary to misjoin them than to refuse to join them and later decide to join them.

H/H. SAMUEL BRIGHT ACQUAH
CIRCUIT COURT JUDGE