

IN THE CIRCUIT COURT '2' ADENTAN BEFORE HER HONOUR  
SEDINAM AWO BALOKAH  
(MS) THE PRESIDING JUDGE ON THE 3<sup>RD</sup> DAY OF FEBRUARY, 2023

TIME: 9:10 AM  
C5/027/2023

SUIT \_\_\_\_\_ NO.

DR. LINDA DANLADI  
PETITIONER  
ACCRA

VRS.

SAM KWESI ANDOH  
RESPONDENT  
4<sup>TH</sup> FLOOR ANNA HOUSE  
214-218 HIGH ROAD  
LONDON N15 4NP

BWF SOLICITORS

Parties Present

Emmanuel Selase Asamoah Present for Petitioner/Respondent

Francis Kojo Kwarteng Arthur Present for Respondent/Applicant

**Counsel for Respondent/Applicant:** We move in terms of the Motion filed on 23<sup>rd</sup> December, 2022 the supporting Affidavit, the supplementary Affidavit in support and all Annexures. We pray that the Petition issued and Notice of same be set aside as same is a nullity. Humbly submitted.

**Counsel for Petitioner/Respondent:** We are opposed to the Motion. We deemed that it is irregularity which is curable under **Order 81 of CI 47**. Humbly submitted

**By Court – Ruling**

It is evident on the record that the Petitioner issued a petition whose Notice was to be served on the Respondent outside Ghana without Leave of the Court. See Petition issued on 11<sup>th</sup> November 2022. Subsequently, a Motion for Leave to issue

Petition and for Leave to serve Notice of same on Respondent was filed on 24<sup>th</sup> November 2022. The assumption after granting said Motion was for the Applicant to issue the proposed Petition upon the leave granted by the court in said Order. However, the records show that no fresh Petition Pursuant to leave of court was filed after the Order dated 30<sup>th</sup> November 2022. This is the complaint per the instant Application. The Question to answer is whether or not this non-obedience or non-compliance of the Order of the Court is one that goes to the root of the case or is one curable under **Order 81 of CI 47** as amended.

It is my considered opinion that where a condition precedent has not been complied with, with regards to an Originating process, the non-compliance goes to the root of the matter, that is the jurisdiction of this court and this trite learning.

For the above reason, the Petition filed on 11<sup>th</sup> November, 2022 on which all order proceedings have been built is one filed in blatant disregard for the rules which go to non-compliance that touches the jurisdiction of the Court. That is no Leave being sought before the 11<sup>th</sup> November 2022 Petition was issued.

In the circumstances, the said 11<sup>th</sup> November 2022 Petition and all Proceedings flowing therefore from is deemed a nullity and are to be set aside. The suit is in its entirety set aside for being a nullity.

The Petitioner shall put her house in order and is at liberty to re-apply.

**Counsel for Respondent/Applicant:** We pray for cost of Ten Thousand Ghana Cedis (GH¢10,000.00)

**Counsel for Petitioner/Respondent:** We offer Five Hundred Ghana Cedis (GH¢500.00)

**By Court:**

Cost of **Four Thousand Ghana Cedis (GH¢4,000.00)** is awarded against the Petitioner.

(SGD)  
H/H SEDINAM AWO BALOKAH  
CIRCUIT COURT JUDGE

Comfy\*