

IN THE FAMILY AND JUVENILE COURT 'C' AT THE FORMER COMMERCIAL COURT BUILDING, ACCRA, HELD ON WEDNESDAY, 18TH DAY OF JANUARY 2023 BEFORE HER HONOUR HALIMAH EL-ALAWA ABDUL-BAASIT SITTING AS AN ADDITIONAL MAGISTRATE WITH MADAM FELICIA COFFIE AND MR. WISDOM ATIASE AS PANEL MEMBERS.

SUIT NO.: A6/255/23

PATRICIA ASARE BOAFO
NORTH KANESHIE
ACCRA

APPLICANT

VS.

BOADI FRIMPONG-TENKORANG
NUNGUA ACCRA

RESPONDENT

Parties present

No legal representation for both parties.

RULING

This is a Ruling on an Application by the Applicant herein filed on 12th December 2022 for the maintenance of the child in issue.

The Applicant's Case

In her Affidavit in support, the Applicant deposed that she was in relationship with the Respondent which resulted in the birth of a girl now aged Nine (9) years old. She deposed further that the Respondent ceased to maintain her when she took seed but accepted the pregnancy and advised her to give birth. She continued that after delivery of the baby, the Respondent ignored her and refused to pay the hospital bills. She deposed further that the Respondent also refused to maintain the child to the extent that she singlehandedly enrolled the

child into school and has been responsible for her school fees up till date including feeding and all necessities of life. She however indicated that the Respondent has only made one payment of the child school fees. She therefore prays for the following reliefs:

- i. An order by the Honorable Court for the Respondent to maintain the child in issue at Ghc1, 000.00 a month, pay school fees and anything covering school and all necessities of life.
- ii. An order to pay medical bills not covered by National Health Insurance Scheme, Register the child with the Scheme and renew it when it expires.
- iii. Any other and Order(s) deemed fit by the Honorable Court.

The Respondent's Case

The Respondent was ordered to file his Affidavit in Opposition but failed to do so. He however responded to some of the issues raised by the Applicant in open court.

DETERMINATION

In view of the processes before the court, the main issue for determination is whether or not the Respondent is entitled to maintain the child in issue. In making a determination on the issue before the court, the court is guided by Section 2 (1) of The Children's Act (1998) 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...*'.

Analysis

The main issue for determination is whether or not the Respondent is entitled to maintain the child in issue. It must be emphasized that child maintenance is one of the fundamental rights granted every Ghanaian child under the customary and statutory laws of Ghana. **Article 28 of the 1992 Constitution** which is specifically devoted to the rights of children enjoins Parliament to enact laws that ensure that natural parents provide every one of their children, from conception till age Eighteen (18) at least. **The Children's Act, 1998 (Act 560)** is also meant to reform and consolidate the laws relating to children and to provide for the rights of the child of which the Act sets out a number of rights to ensure the well-being of children. The duty of maintenance of children, which is specially dealt with in **Sections 47 – 60 of Act 560**, is a legal obligation, which is imposed on a parent and, in some instances, other persons who may be legally liable to maintain the child. Specifically, **Section 47 of Act 560** states that *'a parent or any other person who is legally liable to maintain a child or contribute towards the maintenance of the child is under a duty to supply the necessaries of health, life, education and reasonable shelter for the child'*.

In the case of **Abubakari vs Abubakari** (152 of 2005) [2005] GHACA 7 (18 May 2005); the Court held that; *'... the law is fairly well settled that it is the responsibility of both parents to cater for their infant children...'* and this position has been captured in Section 49 of Act 560 that *'a Family Tribunal shall consider the income and wealth of both parents of the child when making a maintenance order'*. The Respondent informed the court that he is currently a student at Regent University and a trader but at the moment he has had to put the trading on hold and as such does not have a regular source of income.

It is trite that in making Maintenance Orders, the Court must consider the person from whom maintenance is claimed and whether he or she is able to afford the maintenance that is claimed. Thus, that person must have the means to pay the amount claimed and the MEANS TEST is such that the person who is liable to pay maintenance must have the MEANS and the maintenance so claimed must be REASONABLE. In this instant case, it appears the amount of Ghc1, 000.00 requested for by the Applicant is unreasonable given that the Respondent does not have a regular source of income.

DECISION

In view of the Application, the testimony of the parties and pursuant to the provisions of the children's Act, 1998 Act 560, the court orders as follows;

1. The Respondent shall maintain the child with Ghc300.00 monthly and same is to be paid into court within the first week of every month with effect from February 2023.
2. The Respondent shall be responsible for payment of school fees, textbooks and exercise books whilst the Applicant shall be responsible for the payment of feeding fees, school uniforms and sandals of the child.
3. The Applicant shall register the child under National Health Insurance Scheme and renew same when it expires and Respondent shall be responsible for all medical bills not covered by National Health Insurance Scheme.

.....
H/H HALIMAH EL-ALAWA ABDUL-BAASIT.
PRESIDING JUDGE

I AGREE

I AGREE

.....

.....

MADAM FELICIA COFFIE
PANEL MEMBER

MR. WISDOM ATIASE
PANEL MEMBER