

**IN THE DISTRICT COURT HELD AT SOMANYA ON MONDAY THE 20TH
DAY OF MARCH 2023 BEFORE HIS WORSHIP MICHAEL
DEREK OCLOO THE DISTRICT MAGISTRATE.**

SUIT NO A1/01/2020

ALBERT KWESI AKUFFO - PLAINTIFF/APPLICANT

VRS

1. SACKIE KWABLA - DEFENDANT/RESPONDENTS
2. ERIC T. TAMATEY
3. NOAH MAWUNE EHANORTSUI
4. AWUDU
5. AKUFFO KWEKU

Parties present.

**RULING ON MOTION ON NOTICE TO STRIKE OUT SUIT
FOR LACK OF JURISDICTION**

The Plaintiff commenced the instant action against the defendants for the following reliefs:

1. An order of the court to enforce the Arbitration Award declared by the Konor Palace of Manya Krobo Traditional Area on the 26th of June, 2019.
2. An order to evict Defendants from the disputed land situate and lying at Obuapah West.
3. Cost of litigation.

The 2nd 3rd and 5th Defendants filed a motion on notice for an order to strike out the suit for lack of jurisdiction on the following grounds:

1. That the land in dispute is located at Oborpah which is within the Lower Manya Krobo Municipality.
2. That the purported arbitration upon which the suit was filed was held by the Kornor of Manya Krobo at Odumase Krobo.

3. That the instant case emanated from Oborpah which is in the Lower Manya Krobo Municipality which is outside the jurisdiction of the Somanya District Court.

The Plaintiff/Respondent filed his affidavit in opposition on the following grounds.

1. That proceeding has commenced for about 3 years now and the parties have filed their respective witness statements without the Defendants raising any issue of jurisdiction all this while.
2. That the matter before the court is just for the enforcement of an arbitration award which does not raise any issue of jurisdiction.
3. That the Defendant/Applicants filed the instant motion just to delay the court's time.

The Plaintiff/Respondent contends that the issue concerning the land in dispute was taken to the paramount chief's arbitration tribunal at Manya Krobo for arbitration which was presided over by Nene Sakite II, the Konor of Manya Krobo. The arbitration went in his favour and is therefore seeking for the enforcement of same in accordance with the provision in Section 110 (1) of the Alternative Dispute Resolution Act, 2010 which states as follows:

A customary arbitration award may for the purpose of record and enforcement be registered at the nearest District Court, Circuit Court or High Court as appropriate.

The subject matter which is the disputed land is located at Oborpah which is within the Lower Manya Krobo Municipality and the arbitration was held at Odumase Krobo and was presided over by the Konor of Manya Krobo. The District Court, Somanya is located in the Yilo Krobo Municipality. It is therefore clear that Obourpah is located outside the jurisdiction of this court. This means that the issue of geographical jurisdiction is at stake.

Also Order 5 r 2 (1) (a) of the District Court Rules, 2009 (C159) provides as follows:

Where a cause or matter is commenced in a magisterial district other than that in which it ought to have been commenced under rule 1, it may continue in the

magisterial district in which it is commenced unless the defendant raises an objection to the jurisdiction before or at the time the Plaintiff's case is commenced.

In the instant case the land in dispute is located outside this court's jurisdiction as such this court lacks geographical jurisdiction to deal with the suit as raised by the defendants before the commencement of Plaintiff's case.

In the circumstance I rely on the provisions in the cited statute laws and grant the motion and order the Plaintiff to institute the action in a court of competent jurisdiction within the Lower Manya Krobo Municipality.

(SGD)
H/W MICHAEL DEREK OCLOO
DISTRICT MAGISTRATE
20/3/2023