

10/02/2023

IN THE DISTRICT COURT HELD AT ASAMANKESE ON THE 10TH DAY OF
FEBRUARY, 2023, BEFORE HIS WORSHIP GEORGE DAVIS KWESI OFORI
(MR) - DISTRICT MAGISTRATE

SUIT NO: A1/19/23

FELIX BEDIAKO AMOAH PER HIS
LAWFUL ATTORNEY COMFORT
ABENA KYERAA

...PLAINTIFF/APPLICANT

VRS.

1. YAW ABOAGYE
2. KAKRABA
3. EBO

... DEFENDANT/RESPONDENTS

R U L I N G

This is a motion on notice filed by counsel for and on behalf of the plaintiff for an order of interlocutory injunction to restrain the 1st defendant, or any person claiming interest in the land through him from entering the land which is the subject of this dispute until the final determinations of the suit. Counsel did not come to move the motion but because interlocutory matters are matters in which time is of the essence, and because the 1st defendant had responded, I adjourned for ruling based on the averments contained in the motion paper and affidavit in support and in opposition respectively.

BY COURT:

In Punjabi Bro vrs. Namih (1958) WALR 83, it was held that some of the factors that a Court should consider before granting or refusing applications of this nature are, but not limited to:

- (a) Whether or not the applicant has disclosed a legal right to the disputed property:

- (b) The party to suffer greater hardship or relative inconvenience should the application be granted or refused;
- (c) Whether or not the applicant can be adequately compensated, in the event that he or she wins the suit, if the application is refused,
- (d) Whether or not a refusal to grant the application would render the entire action nugatory; etc. See also *Owusu vrs Owusu Ansah* [2007-2008] SCGLR 870

The Plaintiff/applicant disclosed in his affidavit in support that he is the head of the Asona Family and that the property in dispute is a family property. By this, he has disclosed a legal right to the disputed property.

Being a plot of land, if I do not grant the application, what it means is that I have clothed the defendants with the right to continue building the house on the subject matter, and this would render the entire suit nugatory.

The main issue to be determined at the end of trial is ownership of the disputed land, which cannot be done now.

For these reasons, to create a level playing field, and for the scale of justice to be fairly balanced at this stage, I restrain both parties from further developments on the disputed land until the final determination of the suit. This order also affects their agents, assigns, labourers, workmen, and all who claim interest in the disputed land through the parties.

The defendant would be adequately compensated in the event that they win the suit, as the subject is land which appreciates in value over time. No orders as to costs.

(SGD)

H/W GEORGE DAVIS KWESI OFORI
(MAGISTRATE)
10/2/2023

