

IN THE FAMILY AND JUVENILE COURT 'C' AT THE FORMER COMMERCIAL COURT BUILDING, ACCRA, HELD ON TUESDAY, 7<sup>TH</sup> DAY OF FEBRUARY 2023 BEFORE HER HONOUR HALIMAH EL-ALAWA ABDUL-BAASIT SITTING AS AN ADDITIONAL MAGISTRATE WITH MR. WISDOM ATIASE AND MADAM PHILOMENA SACKY AS PANEL MEMBERS.

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SUIT NO. A6/247/23

EVELYN ASHMOND PANYIN  
ABLEKUMA, ACCRA

APPLICANT

VS.

HENRY MYERS  
MADINA, ACCRA

RESPONDENT

**Parties present**

**No legal representation for both parties**

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### RULING

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This is a Ruling on an Application by the Applicant herein filed on 6<sup>th</sup> December 2022 for the following reliefs;

- i. An order by the Honourable Court to compel the Respondent to maintain his biological child at Ghc1, 500.00 a month, pay school fees and anything connected to school.
- 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. An order to rent an alternative and decent accommodation for the Applicant and the child and or renew the existing rent which has expired.

The basis of Applicant's Application as deposed to in her Affidavit in Support is that she was in a relationship with the Respondent through which they were blessed with a male child aged Eight (8) years. She further deposed that after delivery of the child, the Respondent took care of the child less than a year as it was not consistent but after a year, the Respondent ceased to maintain the child till date and has since maintained the child with only Ghc100.00. She deposed again that she had been constantly reminding the Respondent about the child's maintenance, school fees and medicals bills but Respondent has been ignoring her and sometimes goes to the extent of insulting her, hence her prayer before the court.

### **The Respondent's Case**

The Respondent in his Affidavit in Opposition filed on 24<sup>th</sup> January 2023 admitted the relationship and the birth of the child but insisted that he maintained the Applicant during and after the pregnancy until a time when the demands of the Applicant became outrageous and unbearable. He therefore prayed for the following;

- i. An order for custody of the child as he is currently married with kids whom he can take care of.
- ii. An order for reasonable access to the Applicant.
- iii. Any other orders as the court may deem fit.

### **DETERMINATION**

In view of the evidence on record the issues for determination are;

- i. Whether or not the Respondent can have custody of the child.
- ii. Whether or not the Respondent is to provide all necessities of life for the child in issue.

### **Analysis**

The first issue is bothers on custody of the child as the Respondent prays for custody of the child. The evidence on record shows that the child is about Eight (8) years old and has always lived with the mother but the Respondent wants custody of the child and says that he is currently married with other kids. Section 45 of The Children's Act, 1998 (Act 560) provides in sub section 1 that '*a Family Tribunal shall consider the best interest of the child and the importance of a young child being with his mother when making an order for custody or access*'. Section 45(2)(e) also provides that in granting custody or access, there is '*the need for continuity in the care and control of the child*'. In view of the provisions stated above as well as the evidence on record, the court is of the considered opinion that it will be in the best interest of the child not to change the status quo as that is likely to disrupt the child's established pattern of life.

The next issue bothers on the provision of the necessities of life of the child in issue. **Section 6 (1) of Act 560** provides on Parental duty and responsibility and states that '*...no parent shall deprive a child his welfare whether the parents of the child are married or not at the time of the child's birth; or the parents of the child continue to live together or not*'. **Section 6(2)** further provides that '*...every child has the right to life, dignity, respect, leisure, liberty, health, education and shelter from his parents*'. The effect of the above mentioned section is that mothers and mostly fathers have legal rights and responsibilities as a parent and this can be described as 'parental

responsibility'. So that once an individual(s) have parental responsibility, the most important roles are to provide a home for the child as well as protect and maintain the child. Other responsibilities are disciplining the child, choosing and providing for the child's education and agreeing to the child's medical treatment, among others. To this end, Section 47(1) 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...*' According to Justice Kwabena Asuman-Adu in the case of **ERNESTINA AYENSU BOATENG vs. YAW BOATENG** [2010] DLHC 5660, '*... it is the responsibility of the Respondent as the father to maintain his children who have not attained age 18yrs or are in school ... it is his responsibility as a father to provide for his maintenance which should include food, shelter and clothing. He must also provide for his health and education. These payments should continue until he attains 18yrs of age or completes schooling, whichever comes last...*'

### **DECISION**

Upon consideration of the Application, the evidence on record, the testimony of the both parties and pursuant to the provisions of the Children's Act 1998 (Act 560), the Court orders as follows;

- a. The Applicant shall have custody of the child and the Respondent shall have access at the last weekend of every month. He is to pick the child up on Fridays by 5pm and return the child to the Applicant by 2pm on Sundays. The Respondent shall also have access to the Child during the first half of every school vacations.

- b. The Respondent shall pay the child’s school fees and other incidental school expenses and the Applicant shall pay for the school uniforms, school bags and school sandals.
- c. The Applicant shall register the child under National Health Insurance scheme and renew same when it expires. The Respondent shall pay all medical bills not covered by National Health Insurance Scheme.
- d. The Respondent shall maintain the child with an amount of Ghc600.00 and same is to be paid at the beginning of every month with effect from February 2023 through the Applicants Bank Account.
- e. The Respondent shall be responsible for 50% portion of the Applicant’s rent of Ghc300.00.

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

**I AGREE**

**I AGREE**

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**MR. WISDOM ATIASE  
SACKEY  
PANEL MEMBER**

**MADAM                      PHILOMENA  
PANEL MEMBER**