

IN THE SUPERIOR COURT OF JUDICATURE

**IN THE HIGH COURT OF JUSTICE HELD AT ASSIN FOSO IN THE CENTRAL
REGION ON MONDAY THE 5TH DAY OF JUNE 2023, BEFORE HIS LORDSHIP
JUSTICE JOHN BOSCO NABARESE**

SUIT № E12/73/2017

EBUSUAPANYIN AMPOMAH KUBRAH ~ ~ PLAINTIFF
H/№ D/15, ASSIN ANDOE

VERSUS

1. JOHN ANTWI	}	~ DEFENDANTS
2. KWABENA AMPONSAH		
3. KWAKU DUAH		
4. JOOJOE		
5. KWABENA ANTWI		
6. AKUA ADJAPONGMAA		
7. AMA YAATA		
8. BOB		

ALL OF ASSIN ANDOE

JUDGMENT

On the 9th day of December, 2016, the plaintiff herein filed a writ of summons in the registry of this court, claiming the following reliefs against the defendants:

- a. *A declaration by the honorable court that the purported destoolment of Ampomah Kubrah as Ebusuapanyin by the defendants is null and void and of no effect.*
- b. *An order directed at the defendants to return the Ebusuapanyin's stool in good condition to its place in the chief's palace.*
- c. *An order of interim injunction to restrain the 1st defendant from holding himself or allowing himself to be referred to as Ebusuapanyin of Assin Andoe.*
- d. *An order of interim injunction restraining the defendants, their privies and assigns from interfering, in anyway, in the traditional administration of Assin Andoe pending the determination of the matter.*
- e. *An order of the honorable court to restrain the defendants from harassing and intimidating the plaintiff.*
- f. *An order directed at the defendants to account for monies they have collected from Andoe settler farmers*
- g. *Costs.*

The writ of summons was accompanied by a statement of claim. The background to the instant case, as stated in the statement of claim, is that, on the 5th day of September, 2016, the 1st and 2nd defendants herein and one other commenced an action against the plaintiff before the High Court, Cape Coast, in a suit numbered E12/22/17, and simultaneously filed a motion for interim injunction. They were seeking the following reliefs then against the plaintiff.

- i. *An order for the removal of Ebusuapanyin Ampomah Kubrah as the head of the Royal Asona Dwumena family of Assin Andoe in the Assin Apimanim Traditional Area in the Central Region of the Republic of Ghana.*
- ii. *An order directed at the defendant to render account of his stewardship as head of the Royal Asona Dwumena family of Assin Andoe in the Assin Apimanim Traditional Area in the Central Region of the Republic of Ghana from 1984 to date.*

- iii. An order of perpetual injunction restraining the defendant from acting and or parading or holding himself out or allowing himself to be referred to in anyway or manner as the head of the Royal Asona Dwumena family of Assin Andoe in the Assin Apimanim Traditional Area in the Central Region of the Republic of Ghana or at any other place.*
- iv. Any other reliefs as this honorable court may deem fit so to order in the circumstance.*

According to the plaintiff, in the said suit, the 1st and 2nd defendants herein purported to be and described themselves as head of Nana Yaw Tsin Gate and head of Nana Binatua Gate respectively of the Royal Asona Dwumena family of Assin Andoe. The plaintiff herein stated that he denied the existence of the alleged gates and said the assumed capacity is false since the plaintiffs herein cannot claim to be heads of or members of a non-existent entity. He said he also denied the allegations leveled against him, and then caused his counsel to raise a preliminary objection to the capacity of the plaintiffs therein.

It is the case of the plaintiff herein that when the court ordered the parties to file their witness statements for further action, relating to the preliminary objection raised, on Sunday, the 27th day of November, 2016, at around 8:30 a.m., the defendants herein entered his house at Andoe. He said some other persons stood outside the gate of his house. The 1st defendant then said to him that they had come for settlement of the matter in court. The plaintiff indicated that when he had barely finished his response to the 1st defendant that he was agreeable to a settlement, and that he should be given a week to consult his lawyer and advised that same be done by the defendants so that the lawyers can lead the settlement negotiations, the 4th defendant shouted “*yε tu wo*” to wit, “we have destooled you”, which was taken up by the group in a chant and immediately joined in by those outside his house. The plaintiff said the 2nd defendant then shouted at him and demanded that he should accompany them to the chief’s

palace but he refused, whereupon the defendants went out of the house chanting the chorus “*yε tu wo, yε tu wo*”. The plaintiff stated that soon thereafter the beating and reverberating of Asafo drums amidst chanting and singing of various groups could be heard all over for several minutes. He said eye witness account would disclose that they slaughtered a ram at the palace to signal his destoolment as Ebusuapanyin, and also carried the stool of the Ebusuapanyin, and took it on a procession through the town amidst singing and dancing. The plaintiff said when the group left the palace he went there and discovered that they had vandalized five of the eight Asafo drums, and he made a report to the police, who had since locked up the palace and appealed to the parties to keep the peace. Notwithstanding this appeal, the plaintiff stated that the 1st defendant has since been parading himself as Ebusuapanyin and the defendants herein and their supporters have, by words and deeds, been provoking him and his supporters, and 1st defendant in particular has been harassing and intimidating him and preventing him from attending and participating in funerals and all public gatherings in Assin Andoe. The plaintiff further stated that the defendants have also sent emissaries to Andoe tenant farmer villages to collect ground rent from the farmers. It is the view of the plaintiff that whilst the matter is pending before the court the defendants cannot take the law into their own hands and unjustifiably destool him.

Hence this action.

In their amended statement of defence, the defendants pleaded that the plaintiff was once the Head of the Royal Asona Dwumena Family of Assin Andoe but has now been destooled. According to the defendants, they are the principal members of the Royal Asona Dwumena Family of Assin Andoe, the 1st defendant being the head of the Nana Yaw Tsin Gate, whilst the 2nd defendant is the head of the Nana Binatua Gate of the Royal family. They stated that there are three (3) gates of the Royal Asona Dwumena

Family of Assin Andoe, namely the two gates stated above and the Nana Kobina Ando gates.

The defendants indicated that, 3rd, 7th, and 8th defendants are members of the Nana Binatua Gate, whereas the 4th, 5th and 6th defendants are members of the Nana Yaw Tsin Gate. The defendants deny that the plaintiff is a member of any of the aforementioned gates existing in the family. It is their view that the plaintiff is a descendant of one Afrifa who was a member of the Asona clan of Assin Wpamlpsp but who was conferred with the Ebusuapanyin position by the then principal members.

It is the defendants position that since the said Afrifa was conferred with the Ebusuapanyin position, it became the practice of the Royal Asona Dwumena family of Assin Andoe that the principal head of the family is chosen from the descendants of the said Afrifa. The defendants stated that, by reason of their tradition, the plaintiff was nominated, appointed and enstooled as the Head of the Royal Asona Dwumena family in the year 1984. On assumption of the headship of the Royal Asona Dwumena family, the defendants averred that, instead of preserving and protecting the family property, he rather dissipated same and indiscriminately disposed of family property and or refused or neglected rendering accounts on his stewardship of the family property, such as receiving ground rents and royalties from tenant farmers, sale of family lands such as cemetery lands, family stool lands sold to one Mr. Arhinful and one Mr. Kwabena Wade. The defendants said on several occasions, the family invited the plaintiff for meetings to address the aforementioned issues, but to no avail though on some isolated occasions the plaintiff honoured the invitation and apologised.

The defendants stated that on 27th November, 2016, early in the morning, there was a meeting of the three gates of the Royal Family in respect of the conduct of the plaintiff and by a unanimous decision, it was resolved by the Royal family that the plaintiff be

removed from his position as Ebusuapanyin, though the 1st and 2nd defendants abstained from the destoolment processes because they had unilaterally filed a case pending in court seeking to destool the plaintiff herein. The defendants further pleaded that the principal members of the family then sent for the plaintiff to meet the family at the palace to be formally informed of the decision of the family but the plaintiff declined and requested that the principal elders rather meet him at his residence, whereupon the family proceeded to and formally informed of his shortcoming and the decision of the family to destool him as the head of family. The defendants admitted that they slaughtered a sheep at the place to seal plaintiff's removal in accordance with the customary practice of the Assin Apimanim Traditional Area. And on the 29th day of November, 2016, the family duly informed the Assin Apimanim Traditional Council of the removal of the plaintiff as head of the Royal family and again slaughtered a sheep at the Traditional Council as custom demands.

The defendants deny the destructions of properties at the palace, and also denied preventing the plaintiff from taking part in the activities of the family or at Assin Andoe since he is an acknowledged member of the family. They also stated that it was a family decision that tenant farmers on their lands should cease to attorn tenant to the plaintiff since he has been removed as the family head. The defendants then counterclaimed against the plaintiff for:

- a. A declaration that the plaintiff has been validly removed as the Head of the Royal Asona Dwumena Family of Assin Andoe in the Assin Apimanim Traditional Area in the Central Region of the Republic of Ghana, or in the alternative;*
- b. An order for the removal of the plaintiff (Ebusuapanyin Ampomah Kubrah) as the head of the Royal Asona Dwumena Family of Assin Andoe in the Assin Apimanim Traditional Area in the Central Region of the Republic of Ghana.*

- c. *An order directed at the plaintiff to render accounts for his stewardship as Head of the Royal Asona Dwumena family of Assin Andoe in the Assin Apimanim Traditional Area in the Central Region of the Republic of Ghana from 1984 to date*
- d. *Any other relief(s) as the court may deem fit to order in the circumstance.*

On the pleadings, the following issues were set down for trial:

- a. *Whether or not the plaintiff is the head of the Royal Asona Dwumena family of Assin Andoe*
- b. *Whether or not the defendants have the capacity to remove the plaintiff as the head of the Royal Asona Dwumena family*
- c. *Whether or not any person not tracing his lineage from Nana Ampomah Kubrah can be made the head of the Royal Asona Dwumena family of Assin Andoe.*
- d. *Whether or not the Royal Asona Dwumena family of Assin Andoe is divided into gates or there is only one unit family.*
- e. *Whether or not the plaintiff is in charge of family lands and receives revenue from tenant farmers of the stool land of the Royal Asona Dwumena stool family.*

With regards to issue (f), which is, “whether or not the plaintiff is entitled to the reliefs sought”, I think that it is no issue at all because that is the more reason why the parties are in court, and therefore cannot form a separate issue for consideration.

Be that as it may, upon critical examination of the pleadings, it is clear that the main issue is whether or not a family meeting was properly held by the Royal Asona Dwumena family of Assin Andoe to make the deposition of the plaintiff as head of the family valid. Thus, the pleadings raised a triable issue as to the propriety of the alleged deposition of the plaintiff as head of family. The other issues will be considered alongside this main issue, since they are linked to the main issue raised.

To be able to determine the issues raised supra, I shall have to examine the requirements of the customary procedure for the appointment and removal of a head of family or a successor, and then examine the evidence in the instant case to see how far the defendants contention is made out.

The requirements of customary procedure have been laid out in our case law. These requirements have been stated in **QUARCOO V. ALLOTEY [1980] GLR 788 at 702 and 703**, and are as follows:

- (a) A meeting of the family must be convened;*
- (b) The purpose of the meeting must be spelt out, i.e. to consider complaints brought against the head or successor; and*
- (c) All principal members of the family entitled to be invited must be invited*
- (d) The decision if taken by vote by the majority of the principal members present; and*
- (e) The proceedings must not violate any fundamental principle of the administration of justice."*

See also: 1. LARTEY V. MENSAH (1958) W.A.L.R 410

2. IN RE ESTATE OF KWABENA APPIANIN (DECEASED); FRIMPONG V. ANANE [1965] GLR 354

In **ABAKA and Others v. AMBRADU [1963] 1GLR 456**, the Supreme Court held the removal of a head of family and appointment of another in his place to be void, because notice of the meeting was not given to the head who was to be deposed, and the majority of the principal members. In the course of its judgment in the case, the Supreme Court at pages 462-463 of the report said:

"According to custom the head of a family is appointed by the principal members of the family. They are also cloaked with authority to depose him, but the deposition will be

invalid unless a complaint is lodged against him and he is summoned to answer it. The complaint must show what offences the head of family has committed against the family in order to afford him an opportunity to meet them. If the complaint is proved he may be removed by a majority of the principal members of the family present.

But where the head of family who is summoned by the principal members of the family to attend a family meeting to answer the complaint against him fails to attend the hearing, and does not give good reason for his absence, he may be removed. It is of great importance also that all the principal members of the family should be invited to the meeting because any decision taken is by the majority of the principal members attending the meeting...

In the case of the appointment of head of family, the headship must as a matter of course first become vacant to the knowledge of the family. The appointment is then made at a meeting of the council of the family, consisting of such as the elders or principal members as accept the invitation to attend the meeting. However, if notice of the meeting was given to all the principal members who are entitled to be invited to it, an appointment made at the meeting would be valid and effective notwithstanding the absence of some of the principal members from the meeting."

The principle of customary law from several of the cases mentioned is that matters such as appointment and removal of a head of family which are of vital importance to a family, all principal members of the family are entitled to a hearing and, opportunity should be given to all of them so that those of them who wish to be heard can exercise their right. Thus, if members are informed that the meeting is being convened to inquire into the conduct of the head, or into the manner of his administration of the family properties, it is implied that if complaints made against the head are substantiated at the meeting, the natural resulting step is his deposition, followed by the appointment of

another head to take his place. It will be most unreasonable, indeed unjust, to pass notice round that a meeting is being convened specifically to depose a head when no investigations have been held into any charges or allegations made against him.

To do so is to prejudge the issue, condemning a man before you have heard him. I will now apply these principles to the instant case.

The first issue is whether the plaintiff who was the head of the Royal Asona Dwumena family of Assin Andoe had been removed from office at a family meeting held on 27th November, 2016, properly constituted for that purpose. The evidence shows that on 27th November, 2016, pursuant to the purported removal of the plaintiff as head of family, there were no notices convening a family meeting, with all the principal elders of the family including the plaintiff assembled.

The main complaints which the defendants say the family has against the plaintiff are that on the assumption of the headship of the Royal Asona Dwumena family of Assin Andoe, in 1984, the plaintiff failed or refused rendering accounts of his stewardship to the family. They further stated that on several occasions the principal members of the family called meetings to address the conduct of the plaintiff but the plaintiff failed to avail himself.

The 1st defendant however noted that the plaintiff did honour the meetings on few occasions and apologised for his misconduct. There is however no evidence to that effect, except to say that the plaintiff denied any charges leveled against him for which he was called to answer by the principal members of the family. The contention by the defendants is that on 27th November, 2016, following a meeting held by the family that it was resolved that the plaintiff be removed as the head of family.

But this is what the plaintiff had to say on the matter as to what transpired on 27th November, 2016. According to the plaintiff, on that day which was a Sunday, around 8:30a.m the defendants entered his house at Andoe whilst some other persons stood outside the gate of the house. The 1st defendant then said to him that they had come for a settlement of the case pending before the High Court, Cape Coast. He then requested for one week to consult his lawyer and he then advised the 1st defendant to also consult their lawyer so that the lawyers can lead the settlement negotiations. The plaintiff said he had barely finished with his response when the 4th defendant shouted "*yɛ tu wo*", to wit "we have destooled you" which was taken up by the group in a chant and immediately joined by those outside. This is the evidence of the plaintiff, and yet it was not attacked and discredited under cross-examination. The 1st defendant gave an answer under cross-examination that is at variance with his evidence in chief concerning the removal of the plaintiff. In his evidence-in-chief, the 1st defendant said that:

"When we informed the plaintiff that he was needed at the meeting ground, he declined (s.i.c) honour the invitation that the principal elders rather meet him at his house which is also a family house. The delegation came back with information concerning the plaintiff's decision not to honour the invitation so the whole family members at the meeting thus proceeded to the house of the plaintiff where he was informed that the family had resolved to relieve him of his position as head of family".

When the question was then put to the 1st defendant concerning his evidence, this is what transpired;

Q: According to your evidence, after the delegation had informed the principal members the whole family members at the meeting proceeded to the house of the plaintiff where he was informed that the family had resolved to relieve him of his position as head of family.

A: That is not correct.

From the 1st defendant's response, it can be inferred that there was no meeting in the first place convened by the family that resolved to remove the plaintiff as head of family.

Now, when the 1st and 6th defendants were cross-examined as to how the plaintiff was invited to attend the family meeting, they said that it was Okyeame Yaw Oteng who was sent to invite the plaintiff. And yet they failed or refused to call the said Okyeame Yaw Oteng to corroborate their evidence. Indeed, the 1st and 6th defendants did not even know the exact dates that any invitation was sent to the plaintiff to attend a family meeting. This raises a lot of unanswered questions in the evidence of the two defendants about any complaints brought against the plaintiff as head of family, after which he was purportedly removed.

In his written submission, counsel for the plaintiff questioned the whereabouts of the principal elders of the Royal Asona Dwumena family when the plaintiff was removed as head of family. Indeed, under cross-examination the 6th defendant was asked by counsel for the plaintiff how the plaintiff was removed. This is what ensued:

Q: Tell the court how the plaintiff was removed.

A: Before the plaintiff was removed as head of family charges were preferred against him and after that he was removed in the presence of Ohemaa Amoanimaa Brago, and after that a sheep was slaughtered...

And yet the defendants again failed or refused to invite Ohemaa Amoanimaa Brago to testify as being present when the charges were leveled against the plaintiff and his subsequent removal.

The 1st defendant mentioned the following persons as the principal elders of the Royal Asona Dwumena family: they are: Obaahemaa Nana Amoanimaa Brago III, Ebusuapanyin Baffour Akoto, Ebusuapanyin Attakuma, Ebusuapanyin Aduhene, Ebusuapanyin Kwaku Duah, Ebusuapanyin Kweku Dankwah, Ebusuapanyin Ampoma Kubrah (*plaintiff herein*), Nana Kwaku Atta Banafo III.

From the evidence of the 6th defendant, the plaintiff was removed as head of family in the presence of Obahemaa Nana Amoanimaa Brago. This piece of evidence is doubtful because there is no corroboration of this piece of evidence anywhere, otherwise, if the principal elders of the family were present, their names would have been mentioned as being present at the time of the removal of the plaintiff as head of family. It therefore cast doubt on the credibility of the defendants as to whether the principal members of the family were invited to attend a family meeting for the purpose of removing the plaintiff as head of family.

It is trite learning that in every civil trial, the proof required was by a preponderance of the probabilities in accordance with section 12 of the Evidence Act, 1975 (NRCD 323), which provides that the amount of evidence required was dependent on the nature of the issue to be resolved.

Accordingly, I cannot rely on the evidence of the 1st and 6th defendants in proof of the point in issue that there was a properly constituted family meeting for the purpose of removing the plaintiff as head of family and which was attended by the principal members of the family. Their evidence is not credible and cannot be believed.

It must be observed that even before the purported removal of the plaintiff as head of family, the 1st, 2nd defendants herein and one Kwame Yeboah on the 5th day of September, 2016, instituted an action at the Cape Coast High Court, against the plaintiff herein (Exhibit "A"), and one of the reliefs being sought was the removal of the plaintiff

as head of family. The plaintiff herein before the High Court, Cape Coast, then differently constituted, raised a preliminary legal objection regarding the assumed capacity of the 1st, 2nd defendants and one Kwame Yeboah. The arguments regarding the preliminary objection as to capacity were heard on 18th November, 2016 and the matter was adjourned to 20th December, 2016 for ruling, only for the defendants to purport to have removed the plaintiff on the 27th November, 2016.

So when under cross-examination, the 1st defendant was asked how he would reconcile his contradictory statements that he abstained from the removal of the plaintiff as head of family as a result of the pending suit and his involvement in the removal, he gave a weird answer that the principal members were stronger than him so he could do nothing.

This strange answer of the 1st defendant only goes to strengthen the case of the plaintiff that all the defendants in the instant case are only ordinary members of the family. If the defendants, especially that of the 1st and 2nd defendants, and Kwame Yeboah, had capacity to institute the action in Cape Coast for the removal of the plaintiff as head of family, they would have been patient for the outcome of the Court's decision to be delivered on 20th December, 2016, instead of embarking on an adventure on 27th November, 2016, that allegedly sought to remove the plaintiff as head of family with the perceived mindset that the plaintiff had misconducted himself in the administration of the affairs of the family, after being head of family for over thirty-one years, when on the evidence, it is clear that no charges were ever leveled against the plaintiff all these years, and for which he failed or refused to answer them to the satisfaction of the family.

Infact PW1, whose evidence I believe was credible, and who said he knows the family history, having been appointed a regent of the family stool, said that no charges were

preferred against the plaintiff for which he was unable to answer, and that if it was the case, the whole family would have to meet and then take a decision to remove him, not a section of the family thereof.

This brings me to the issue of lands at Assin Andoe. Both the 1st and 6th defendants admit that Assin Andoe lands are largely stool lands. By customary law therefore, it was only the chief, the occupant of the stool, and the principal elders or some of them who could validly alienate stool land

See: ADUMUAH & ANOTHER V. TETTEY-KWAO & OTHERS [1997-98] 1GLR 344.

This principle will largely apply to stool lands at Assin Andoe. Whereas the 1st defendant disagrees under cross-examination that stool properties including stool lands are the responsibility of the occupant of the stool, the 6th defendant however agrees with counsel for the plaintiff that the occupant of the stool is responsible for the management of stool properties but not the head of family. I couldn't agree with counsel more on this issue that the evidence of the 6th defendant supports that of the case of plaintiff because it corroborates that of the plaintiff. And thus the law, as rightly pointed out by the counsel for the plaintiff in his written address, *"where the evidence of one party on an issue in a suit was corroborated by witnesses of his opponent, whilst that of his opponent on the same issue stands uncorroborated even by his own witnesses, a court ought not to accept the uncorroborated version in preference to the corroborated one unless for some good reasons the court found the corroborated version incredible or impossible"*.

See: 1. OSEI YAW & ANOTHER V. DOMFEH [1965] GLR 418 (SC)

2. ASANTE V. BOGYABI & OTHERS [1966] GLR 232

So therefore if since 1984 that the plaintiff became head of family and no charges were brought against him for mismanagement of family property, and it was only after the

death of the late chief on 15th December, 2015, and who is yet to be buried, that the defendants found it important to remove the plaintiff as head of family, then that smacks of a sinister motive by the defendants. The plaintiff could not have single handedly sold any lands, as claimed by the defendants, there being no sufficient evidence in that regard, without the consent and occurrence of the late chief before his demise.

The trumped up charges that the defendants made against the plaintiff were unreasonable, indeed unjust when no investigations had been held into any of the charges or allegations preferred against him. Indeed no individual was called or invited by the defendants to testify that the plaintiff without the consent and concurrence of the late chief and other principal members of the family sold family land to him. They prejudged him on 27th November, 2016, a day on which he was only approached for the settlement of the pending suit in Cape Coast. Let me however state that generally, it is within the competency of a family meeting to take any decision or action which properly flows from the general object advertised. This was however not the case in the instant case, where the plaintiff was only approached in his house for settlement of a pending court case that bordered on the same issue in this court.

The defendants also raised the issue that the plaintiff is a descendant of one Afrifa who was a member of the Asona clan of Assin Woakoso, but conferred with Ebusuapanyin position by the then principal members of the defendant's family. This issue of appointment of whether a non-member of family can be appointed as head of family has been settled by the Court of Appeal in *AFFRAM & ANOTHER V. DIDIYIE III; TWUM V. DIDIYIE* [1999-2000] 2GLR 148 C.A, where the Court of Appeal pronounced that:

“There was no hard and fast rule that inhibited any family from appointing the head from the paternal or maternal side only as the case might be; any competent person related to the family by blood may be appointed by the family as its head. The family, if properly constituted, might even appoint a total stranger as its head; legal speaking, such an appointment could not be rejected by an outsider as the family might have its own reasons for doing that. However, in cases where the family appointed a non-member or a person who did not have a right to the position as its head, the appointment was limited to the life of the appointee and could not be enjoined by his children as of right since it was not legal right that put him there in the first place. Furthermore, the appointment of a head of family need not be done at a formal meeting since a person might become head of family by popular acclamation or acknowledgment.”

Following from this, if what the defendants are saying is the case, then the descendant of the plaintiff who was not related to the defendants principal members at the time by blood, but made head of family, the appointment would have been limited to the life of that appointee only and could not be passed on to any of his children as of right.

The evidence of PW1 indicates clearly that the plaintiff and the defendants are of the same family, with the head of family being appointed exclusively from the plaintiff's family. Based on the evidence, it is unfortunate that after the death of the late chief in December, 2015, the defendants are trying to sow seeds of division in the entire Royal Dwumena family of Assin Andoe by their conduct.

Viewed from the totality of the evidence, and especially the evidence of the plaintiff and his witness, which I consider credible enough to be believed, and the circumstances in which the plaintiff found himself, I am of the view that he was the obvious object of attack by the defendants, especially after the death of the late chief, the erroneous impression having been created that he was mismanaging the affairs of the family. I can

reasonably deduce from the plaintiff's evidence and demeanor that he was genuinely being harassed and had to report the matter to the police.

In conclusion, I find that the defendants have not succeeded in providing sufficient evidence to avoid a ruling against them on their counterclaim. In the result, the removal of the plaintiff as head of the Royal Asona Dwumena family of Assin Andoe in Assin Apimanim Traditional Area in the Central Region of the Republic of Ghana is without justification and contrary to customary procedure and therefore invalid. No order shall be directed at the plaintiff to render any account for his stewardship as head of the Royal Asona Dwumena Family, having regard to the fact that all lands in Assin Andoe are stool lands being managed and controlled by the occupant of the stool. Thus, the reliefs sought in the counterclaim of the defendants are hereby dismissed.

I will however grant the plaintiff's reliefs (a), (b), (c), (d) and (e). I declare that the purported destoolment of the plaintiff as Ebusuapanyin by the defendants is null and void and of no effect.

The defendants are to within a matter of fourteen (14) days of this judgment return the Ebusuapanyin stool in good condition to its place in the chief's palace.

The 1st defendant is hereby restrained from holding himself out or allowing himself to be referred to as the Ebusuapanyin of Assin Andoe.

Having determined this matter, the defendants, their privies, and assigns are restrained from interfering in the traditional administration of Assin Andoe, and are also restrained from harassing and intimidating the plaintiff.

There will however be no order directed at the defendants to account for monies they have collected from Andoe settler farmers since this relief has not been proved. Relief (f) therefore is dismissed.

I will award costs of GHC 20,000.00 against the defendants, jointly and severally.

(SGD)

JOHN BOSCO NABARESE

(JUSTICE OF THE HIGH COURT)

COUNSEL:

- | | | |
|----------------------|----|--------------------|
| 1. ISAAC AGGREY-FYNN | -- | FOR THE PLAINTIFF |
| 2. DANIEL ARTHUR | -- | FOR THE DEFENDANTS |