

IN THE SUPERIOR COURT OF JUDICATURE, IN THE HIGH COURT OF JUSTICE  
COMMERCIAL DIVISION, HELD IN ACCRA ON TUESDAY THE 5<sup>TH</sup> DAY OF  
SEPTEMBER, 2023 BEFORE HIS LORDSHIP FRANCIS OBIRI 'J'.

SUIT NO. CM/BDC/0539/2020

**GERMAN EQUIPMENT AND MACHINERY COMPANY - PLAINTIFF**

**VS**

- 1. MINISTRY OF LOCAL GOVERNMENT & RURAL DEVELOPMENT (MLGRD) - DEFENDANTS**
- 2. THE ATTORNEY-GENERAL AND MINISTER FOR JUSTICE**

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**RULING**

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I have listened to the submission for the grant of the application filed by the Plaintiff/Judgment Creditor /Applicant (hereinafter called the Applicant) on 31<sup>st</sup> August, 2023.

I have read the documents filed in this application. The Applicant is praying the court to make an order directed at Bank of Ghana as a garnishee bank in respect of the accounts of Ministry of Local Government and Rural Development and District Assembly Common Fund held at Bank of Ghana.

Under Order 47 (1) of C.I.47, it is the account of a Judgment Debtor which can be attached in respect of garnishee proceedings.

In this case, the District Assembly Common Fund is not a party in the case. The District Assembly Common Fund is therefore not a judgment debtor in the case. The Judgment Debtor in the case as per the writ of summons is the Ministry of Local Government and Rural Development. There is no relation of Judgment Debtor and Creditor between District Assembly Common Fund and the Judgment Creditor.

It would therefore be against the rules of natural justice, equity and good conscience to make an order of garnishee nisi in respect of the account of District Assembly Common Fund.

**See: STATE CONSTRUCTION CORPORATION v HASNAW CO. LTD. AND ANOTHER [2001-2002] 2 GLR 141 CA**

Even though this is a one-sided application, however, the Court will take solace in the opinion of the Supreme Court in the case of **AMIDU (NO. 1) v ATTORNEY-GENERAL, WATERVILLE HOLDING BVI CO. LTD & WOYOME [2013-2014] 1 SCGLR 112**. The Court opined in that case, that a court is not to grant an application hook, line and sinker because it is one-sided. The court must scrutinise the application to see whether its jurisdiction has been properly invoked.

A court is also not bound by any legal misconception by parties or their counsel.

**See: GIHOC REFRIGERATION AND HOUSEHOLD PRODUCTS LTD (NO.1) v HANNA ASSI (NO.1) [2007-2008] 1 SCGLR 1**

From the above discussion, the court will not have any jurisdiction to make any order in respect of the account of District Assembly Common Fund which is held by Bank of Ghana. If the Court does that; it would mean that the court is behaving like an octopus stretching its eight tentacles to grab jurisdiction where it does not have.

Jurisdiction has been defined as the authority which a court has to decide matters which are litigated before it, or to take cognizance of matters presented before it in a formal way for its decision. The limits of this authority are imposed by statute, charter or commission under which the Court is constituted, and may be extended or restricted by like means.

**See: YEBOAH v MENSAH [1997-1998] 2 GLR 245 SC**

**EDUSEI (NO.1) v ATTORNEY-GENERAL [1996-97] SCGLR 1**

**EDUSEI (NO.2) v ATTORNEY-GENERAL [1998-99] SCGLR 753**

Therefore, jurisdiction is determined by the real issues between the parties.

See: ANIN v ABABIO AND OTHERS [1973] 1 GLR 509

REPUBLIC v HIGH COURT ACCRA, EX PARTE ADDAE-ATCHEWEREBUO III AND OTHERS (ASARE BAAH III AND OTHERS-INTERESTED PARTIES), ATTORNEY-GENERAL AND ELECTORAL COMMISSION (THIRD PARTIES) [2010] SCGLR 359

The issue of a court's jurisdiction to entertain a matter is very central to every issue. That is why the court itself can raise it suo motu.

See: BIMPONG BUTA v GENERAL LEGAL COUNCIL [2003-2004] 2 SCGLR 1200

ANTHONY SAKYI v GA SOUTH MUNICIPAL ASSEMBLY [2022] 178 GMJ 216 CA

From the above rendition, the application can only be granted in part. I hereby order that an order of garnishee order nisi be issued and directed at Bank of Ghana to withhold an amount of GH¢1,703,918.52 belonging to Ministry of Local Government and Rural Development until the garnishee proceedings are over or until otherwise directed by the Court.

A representative of the garnishee bank (Bank of Ghana) is to appear in Court at the next adjourn date to testify as to the amount stated above which may belong to Ministry of Local Government and Rural Development, so that the court can make an order as to whether the entire amount or part thereof should be paid to the Applicant. I order accordingly.

SGD.

FRANCIS OBIRI

(JUSTICE OF THE HIGH COURT)

## COUNSEL

MOHAMMED ATTAH FOR THE PLAINTIFF/APPLICANT

## AUTHORITIES

1. STATE CONSTRUCTION CORPORATION v HASNAW CO. LTD. AND ANOTHER [2001-2002] 2 GLR 141 CA
2. AMIDU (NO. 1) v ATTORNEY-GENERAL, WATERVILLE HOLDING BVI CO. LTD. & WOYOME [2013-2014] 1 SCGLR 112
3. GIHOC REFRIGERATION AND HOUSEHOLD PRODUCTS LTD (NO.1) v HANNA ASSI (NO.1) [2007-2008] 1 SCGLR 16
4. YEBOAH v MENSAH [1997-1998] 2 GLR 245 SC
5. EDUSEI (NO.1) v ATTORNEY-GENERAL [1996-97] SCGLR 1
6. EDUSEI (NO.2) v ATTORNEY-GENERAL [1998-99] SCGLR 753
7. ANIN v ABABIO AND OTHERS [1973] 1 GLR 509
8. REPUBLIC v HIGH COURT ACCRA, EX PARTE ADDAE-ATCHEWEREBUO III AND OTHERS (ASARE BAAH III AND OTHERS-INTERESTED PARTIES), ATTORNEY-GENERAL AND ELECTORAL COMMISSION (THIRD PARTIES) [2010] SCGLR 359
9. BIMPONG BUTA v GENERAL LEGAL COUNCIL [2003-2004] 2 SCGLR 1200
10. ANTHONY SAKYI v GA SOUTH MUNICIPAL ASSEMBLY [2022] 178 GMJ 216 CA

