

**IN THE SUPERIOR COURT OF JUDICATURE, IN THE HIGH COURT OF JUSTICE,  
COMMERCIAL DIVISION, HELD IN ACCRA ON TUESDAY, THE 8<sup>TH</sup> DAY OF  
AUGUST, 2023 BEFORE HIS LORDSHIP JUSTICE FRANCIS OBIRI**

**SUIT NO. CM/OCC/0579/2022**

- 1. SAM WHALEY - PLAINTIFFS/RESPONDENTS**
- 2. JANE WHALEY**
- 3. WORD OF FAITH FELLOWSHIP INC**

**VS**

- 1. JOHN KOMI SOUDI ----- DEFENDANTS/APPLICANTS**
- 2. TINA AKOUVI SOUDI**
- 3. CHRISTIAN LIGHT BIBLE CHURCH**
- 4. THE REGISTRAR**
- 5. BIO-LINK PHARMACY LIMITED**
- 6. DEBORAH SOUDI**

**RULING**

I have listened to the submission by counsel for 1<sup>st</sup>, 2<sup>nd</sup>, 3<sup>rd</sup>, 5<sup>th</sup> and 6<sup>th</sup> Defendants/Applicants (hereinafter called the Applicants) for the court to grant their application for Stay of Execution pending their interlocutory appeal filed on 28<sup>th</sup> July, 2023.

I have also considered all the documents filed in support and in opposition to the application for the Stay of Execution pending the interlocutory appeal. The Plaintiffs/Respondents (hereinafter called the Respondents) filed an affidavit in opposition to the application on 3<sup>rd</sup> August, 2023.

The Respondents and their counsel are not in court today, 8<sup>th</sup> August, 2023. However, the court will consider their affidavit in opposition in this delivery. After all, a motion can even be granted or dismissed by examination of the documents filed in respect of the application.

Therefore, a motion even does not necessarily need to be moved before the court can grant or refuse it.

**See: REPUBLIC v COURT OF APPEAL, ACCRA, EX PARTE; EASTERN ALLOY CO. LTD [2007-2008]1 SCGLR 371**

**REPUBLIC v HIGH COURT, ACCRA EX PARTE SIAN GOLDFIELDS [2009] SCGLR 204**

Coming back to the substantive application, the Applicants are praying the court to Stay the Execution of its Order dated 19<sup>th</sup> June, 2023 which granted the Respondents motion for injunction in part.

It is trite law, that the practice of the courts is not to put fetters on victorious parties to prevent them from reaping the fruits of their victory in legal proceedings by granting Stay of Execution.

However, Stay of Execution will be granted if an Applicant demonstrates, that there are arguable points of law to be canvassed on appeal or there are exceptional circumstances

or the circumstances of the case are such that if it is not granted, the appeal would be rendered nugatory.

**See: ACQUAH v TAGOE [2017-2020] 2 SCGLR 73**

**DZOBO v AGBEBLEWU AND OTHERS [1991] 1 GLR 294**

**LIVINGSTONE DJOKOTO & ANOR. v BBC INDUSTRIALS CO.**

**(GHANA) LTD. AND ANOTHER [2011] 39 GMJ 16 SC**

**NDK FINANCIAL SERVICES LTD. v YIADOM CONSTRUCTION & ELECTRICAL WORKS AND OTHERS [2007-2008] 1 SCGLR 93**

In this case, the Applicants have not demonstrated any exceptional circumstances or arguable points of law which should warrant the court to grant the application. A bare assertion that an appeal is likely to succeed is not a ground to grant an application for Stay of Execution.

Therefore, I do not find any merit in the application and proceed to dismiss same. I award cost of GH¢3,000.00 in favour of the Respondents against the Applicants.

**SGD.**

**FRANCIS OBIRI**

**(JUSTICE OF THE HIGH COURT)**

## COUNSEL

MAXWELL AMIHERE FOR PHILIP ADDISON FOR THE  
PLAINTIFFS/RESPONDENTS

MARY AKWELEY ADDY FOR ROBERT QUARTEY FOR THE 1<sup>ST</sup> 2<sup>ND</sup>, 3<sup>RD</sup>, 5<sup>TH</sup> AND  
6<sup>TH</sup> DEFENDANTS/APPLICANTS

## AUTHORITIES

1. REPUBLIC v COURT OF APPEAL, ACCRA EX PARTE EASTERN ALLOY CO.  
LTD [2007-2008]1 SCGLR 371
2. REPUBLIC v HIGH COURT, ACCRA EX PARTE SIAN GOLDFIELDS [2009]  
SCGLR 204
3. ACQUAH v TAGOE [2017-2020] 2 SCGLR 73
4. DZOBO v AGBEBLEWU AND OTHERS [1991] 1 GLR 294
5. LIVINGSTONE DJOKOTO & ANOR. v BBC INDUSTRIALS CO. (GHANA) LTD.  
ANOR. [2011] 39 GMJ 16 SC
6. NDK FINANCIAL SERVICES LTD. v YIADOM CONSTRUCTION &  
ELECTRICAL WORKS AND OTHERS [2007-2008] 1 SCGLR 93