

IN THE SUPERIOR COURT OF JUDICATURE

IN THE HIGH COURT OF JUSTICE

KUMASI-GHANA

A.D. 2022

SUIT NUMBER: C10/38/2022

DATE: 1ST NOVEMBER 2022

IN THE MATTER OF AN APPLICATION FOR JUDICIAL REVIEW IN THE NATURE OF
MANDAMUS AND INJUNCTION

AND

IN THE MATTER OF THE REGISTRATION OF NII NUNOO III AS ABOLA MANTSE

THE REPUBLIC

VRS

REGISTRAR OF NATIONAL HOUSE OF CHIEFS, KUMASI..... RESP

EX-PARTE: ABRAHAM NII OKAI NUNOO.....APPLICANT

NII AHELE NUNOO III.....INTERESTED PARTY

RULING

Article 23 of the 1992 Constitution of the Republic of Ghana provides that "Administrative bodies and administrative officials shall act fairly and reasonably and comply with the requirements imposed on them by law and persons aggrieved by the exercise of such acts and decisions shall have the right to seek redress before a court or other tribunal."

Article 144 of the Constitution also provides that "The High Court shall have supervisory jurisdiction over all lower courts and any lower adjudicating authority; and may, in the exercise

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REGISTRAR
HIGH COURT - GENERAL JURISDICTION

...at jurisdiction, issue orders and directions for the purpose of enforcing or securing the enforcement of its supervisory powers”

And Order 55 of the High Court (Civil Procedure) Rules, 2004 (C.I. 47) provides that;

“1. An application for

(a) an order in the nature of *mandamus*, prohibition, *certiorari* or *quo warranto*; or

(b) an injunction restraining a person from acting in any public office in which the person is not entitled to act; or

(c) any other injunction,

shall be made by way of an application for judicial review to the High Court.

2. (1) On the hearing of an application for judicial review the High Court may make any of the following orders as the circumstances may require

(a) an order for prohibition, *certiorari* or *mandamus*;

(b) an order restraining a person from acting in any public office in which that person is not entitled to act;

(c) any other injunction;

(d) a declaration;

(e) payment of damages.

(2) In granting an injunction or making a declaration under paragraphs (c) or (d) of sub-rule (1) of this rule the Court shall have regard to

(a) the matter in respect of which relief may be granted by way of prohibition, *certiorari* or *mandamus*;

(b) the nature of the persons against whom relief may be granted by way of the order; and

(c) whether in all the circumstances of the particular case it would be just and convenient to grant an injunction or make a declaration on an application for, judicial review.

(3) The Court on an application for judicial review, may award damages to the applicant if the applicant makes a case for damages and if in the opinion of the Court such damages arise from a matter to which the application relates and damages would have been awarded to the applicant in an action begun by the applicant at the time of making the application.

3. (1) An application for judicial review shall be made not later than six months from the date of the occurrence of the event giving grounds, for making the application.

(2) Where an order of *certiorari* is sought in respect of any judgment, order, conviction or other proceeding, the date of the occurrence of the event giving grounds for the making of the application shall be taken to be the date of that judgment, order, conviction or proceeding."

Apparently relying on the above quoted provisions of the Laws of Ghana, the Applicant has filed the instant application on notice against the Respondent for an Order of *Mandamus* to compel the Respondent to delete the name of Interested Party Nii Ahele Nunoo III in the Register of Chiefs on the grounds that;

The registration of the Interested Party was obtained by bias and prejudices the determination of a pending suit at the Ga Traditional Council as per the contents of exhibit ABO 1.

2. An interlocutory injunction was also filed at the Ga Traditional Council (Exhibit ABO 2) to restrain the Interested Party from holding himself out as Abola Mantse (i.e. Chief of Abola) or attending any official function in that capacity pending the final determination of the suit.

3. In spite of the pending suit at the Ga Traditional Council and several letters of protest against his recognition, registration and gazetting, the Interested Party with the assistance of the Registrar of the National House of Chiefs and approval of the acting President of the Ga traditional Council Nii Doodoo Nsaki II who is his son-in-law, applied for and was granted approval to be registered as the Abola Mantse as per the contents of Exhibit ABO 3.

The Respondent neither entered appearance nor filed an affidavit in opposition to the Applicant's motion.

However, the Interested Party filed an affidavit in opposition in which he denied all the assertions of the Applicant and also averred that;

a. He was duly installed as the Abola Mantse on 25th October 2016 and subsequently had his name entered in the National Register of Chiefs which entry was duly published in the Local Government Bulletin.

b. There was no action before any court of competent jurisdiction challenging the processes leading to his installation.

c. The Respondent performed its duty of entering his name in the National Register of Chiefs regularly and in accordance with law at the time it entered his Stool Name in the National Register of Chiefs.

On 10th May 2021, the Applicant acting as 1st Plaintiff together with three others caused to be filed a writ of summons numbered Suit Number CC/JCA/2021 at the Judicial Committee of the Ga Traditional Council against his installation for reliefs endorsed therein.

- e. The Judicial Committee referred the suit to Alternative Dispute Resolution but the Applicant abandoned the case and instituted a fresh writ of summons before the High Court, Accra for essentially the same relief of challenging the interested Party's installation as Abola Mantse.
- f. The Applicant is not showing any interest in the suit he filed at the High Court, Accra leading to unnecessary delays of the case in the Court.
- g. While the Applicant's actions is pending at both the Judicial Committee of the Ga Traditional Council and the High Court, Accra, he has mounted the instant action in this Court.
- h. The Applicant's instant action lacks merit as same does not meet the minimum threshold required to invoke the jurisdiction of this Honourable Court for the grant of the Order of Mandamus or injunction.
- i. Even if the instant application of the Applicant is properly before the Court, the grant of the Applicant's request for an Order of Mandamus will be prejudicial and embarrassing to the High Court, Accra and the Judicial Committee of the Ga Traditional Council given that the cases challenging the Interested party's status as Abola Mantse are still pending before the aforementioned adjudicating bodies.
- j. The grant of the Order of Mandamus before the determination of the Applicants actions before the Judicial Committee of the Ga Traditional Council and the High Court, Accra will occasion grave injustice if the cases are eventually determined in the Interested Party's favour.
- k. The present application by the Applicant is an abuse of the Court process and same ought to be dismissed.

in reaction to the Interested Party's affidavit in opposition, the Applicant filed a Reply in which he further averred that:

- i. The suit before the Judicial Committee of the Ga Traditional Council which is about the rightful occupant of the Abola Mantse Stool is yet to be determined.
- ii. Due process was not followed. Rather deceit, abuse of power, bias and prejudice were the basis for the registration of the Interested Party in the National Register and subsequent publication in the Local Government Bulletin.
- iii. The referral by the Judicial Committee of the Ga Traditional Council of the Applicant's suit to Alternative Dispute Resolution was intentionally made to allow the Interested Party to circumvent due process of the law and it is still pending.
- iv. The matter at the High Court, Accra is an application for certiorari which does not involve the Interested Party.
- v. Applications for Certiorari and Injunctions are as different as night and day and also have different applicable rules.
- vi. The instant application is for an ancillary matter and not for the same reliefs as in the substantive suit at the Judicial Committee of the Ga Traditional Council. Therefore, there is no abuse of Court process as this Court, as a co-ordinate Court of the High Court, Accra, has jurisdiction to hear the instant application.
- vii. No grave injustice will be occasioned if the application is granted. Rather substantial justice will be done to both parties.

Now, in *REPUBLIC v CHIEFTAINCY SECRETARIAT & ANOTHER; EX-PARTE ADANSI TRADITIONAL COUNCIL* [1968] GLR 736 it was held in Holding 1 that "1) generally, an order of mandamus did not lie against the State or servants of the State acting as such to carry out duties laid on the State. Where, however, a person, whether holding office as a State servant

... had a statutory duty of a public nature towards another person, an order of mandamus could lie to compel performance of the duty at the instance of a person aggrieved by the refusal to perform that duty unless another remedy was indicated by the statute. But before a court would make such an order of mandamus the applicant must satisfy four main conditions, namely: (a) that there was a duty imposed by the statute upon which he relied, (b) that the duty was of a public nature, (c) that there was a right in the applicant to enforce the performance of the duty and (d) that there had been a demand and a refusal to perform that public duty enjoined by statute. There was no provision in Act 81 which imposed any duty on the Chieftaincy Secretariat to perform any acts for the recognition or withdrawal of recognition of a chief. An order of mandamus could not therefore be made against the Chieftaincy Secretariat.”

However, it must be stated that in *LARBIE MENSAH IV ALIAS ARYEE ADDOQUAYE v NATIONAL HOUSE OF CHIEFS* [2011] 2 SCGLR 883 the Supreme Court held that the Common Law precondition of making a prior demand before applying for mandamus is no longer applicable due to relevant Legislative and Constitutional provisions. Therefore, the decision of the High Court in the above cited case of *REPUBLIC v CHIEFTAINCY SECRETARIAT & ANOTHER; EX-PARTE ADANSI TRADITIONAL COUNCIL* [1968] GLR 736 on the need to fulfil the condition precedent of making a prior demand before an application for an order of Mandamus is no longer the law applicable in Ghana.

The Office of the Respondent is a creature of Statute. And Section 65 of the Chieftaincy Act, 2008 (Act 759) which defines the functions of the Registrar of the National House of Chiefs provides that “(1) The Registrar of the National House or of each Regional House is the chief administrative officer of the House of Chiefs concerned.

(2) The Registrar shall perform the functions of the House of Chiefs as directed by that House.

...the Registrar shall keep the minutes of the proceedings of the Houses of Chiefs and all have custody of records and any other documents of the House.”

From the clear and unambiguous wording of Section 65 of Act 759, the functions of the Registrar of the National House of Chiefs does not include the deletion of names of Chiefs from the National Register of Chiefs except where he is directed by the House of Chiefs to do so. Thus if the Respondent's function as prescribed by Section 65 of Act 759 does not include the deletion of names of Chiefs from the National Register of Chiefs, can the Respondent be ordered by this Court to delete the name of the Interested party Nii Ahele Nunoo III as Abola Mantse from the National Register of Chiefs pending the final determination of a suit at the Ga Traditional Council? The answer is an unambiguous and loud **NO** because the deletion of names of chiefs from the National Register of Chiefs is not one of the statutory duties imposed on the Respondent by Act 759 for which reason an order of mandamus can lie against him to perform that duty as requested for by the Applicant in his instant application. See **REPUBLIC v GHANA NATIONAL GAS COMPANY; EX-PARTE KINGS DEVELOPMENT COMPANY LIMITED (LANDS COMMISSION INTERESTED PARTY)**, CIVIL APPEAL No. J4/61/2021 DATED 15/12/21.

Thus by reason of the fact that the Applicant has not adduced evidence to prove that the Respondent has a statutory duty of deleting the names of Chiefs from the Register of the National House of Chiefs to perform, which duty the Respondent has neglected, failed or refused to perform for which reason the instant application has been made, the instant application by the applicant is dismissed as unmeritorious.

Cost of GHC 5,000.00 is awarded against the Applicant in favour of the Interested Party only because the Respondent did not even file an appearance.

MR. TOGBE KWAMI SEGLAH ESQ HOLDING THE BRIEF OF FRANK KOMLA MENSAH ESQ FOR THE APPLICANT.

ADDI BAAH KURE ESQ FOR THE INTERESTED PARTY.

(SGD)
JUSTICE ALI BABA ABATURE
(PRESIDING JUDGE)

Ali Baba Abature
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HIGH COURT - GENERAL JURISDICTION

FILED ON 17/11/22
8:30am
REGISTRAR
LAND/HUMAN RIGHT COURT
KUMASI

IN THE SUPERIOR COURT OF JUDICATURE
IN THE HIGH COURT OF JUSTICE
KUMASI – A.D. 2022

SUIT NO. CIO/38/2022

THE REPUBLIC

VRS

REGISTRAR
NATIONAL HOUSE OF CHIEFS - RESPONDENT/RESPONDENT
KUMASI

EX-PARTE ABRAHAM NII OKAI NUNOO - APPLICANT/APPELLANT

NII AHELE NUNOO III - INTERESTED PARTY

NOTICE OF APPEAL

1) **TAKE NOTICE** that the Appellant herein being dissatisfied with the Judgment of the High Court, Kumasi presided over by His Lordship Justice Ali Baba Abature dated 1st November, 2022 do hereby appeal to the Court of Appeal against the Ruling of the Honourable Court delivered on 1st November, 2022 upon the grounds set out in paragraph 3. And at the hearing of the Appeal seek the reliefs in paragraph 4.

AND the Appellant further states that the name and address for service within the jurisdiction of the person directly affected by the Appeal are those set out in paragraph 5.

2) **PART OF DECISION OF THE HIGH COURT COMPLAINED OF**
The whole Ruling

3) **GROUND OF APPEAL**

1. The Learned Justice erred in Law when he failed to follow the decision of the Supreme Court on questions of Laws.

2. The learned Justice erred in law when despite the persistent, consistent and perpetual absence of the Respondent gave a Ruling in the Respondent's favour.
3. The learned Justice erred in law, when the Respondent, despite service thereon of all court processes failed to file any response to our application, gave a Ruling in Respondent's favour.
4. The Ruling cannot be supported based on the evidence on record.
5. The learned Justice has occasioned substantial miscarriage of justice by failing to judicially appreciate the facts and applying the law on same.

Further Grounds will be raised on receipt of the Records of Appeal.

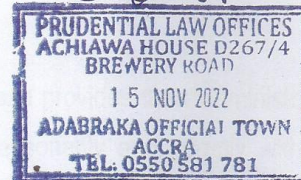
4) **RELIEFS SOUGHT FROM THE COURT OF APPEAL**

1. To set aside the Ruling of the High Court, Kumasi and give judgment in favour of Appellant.
2. Award substantial cost in favour of Appellant.

5) **PERSONS DIRECTLY AFFECTED BY THE APPEAL**

1. Registrar, National House of Chiefs, Kumasi.
2. Nii Ahele Nunoo III.

**DATED AT PRUDENTIAL LAW OFFICES,
ADABRAKA THIS 15TH DAY OF NOVEMBER, 2022.**



**GEOFFREY H. QUIST ESQ.
SOLICITOR FOR APPELLANT
LICENCE NO.: eGAR 02884/22**

**THE REGISTRAR
COURT OF APPEAL
KUMASI**

AND FOR SERVICE ON THE RESPONDENT AND INTERESTED PARTY.

IN THE SUPERIOR COURT OF JUDICATURE, IN THE HIGH COURT OF JUSTICE, GENERAL JURISDICTION 2, ACCRA, HELD ON WEDNESDAY, THE 1ST DAY OF MARCH 2023, BEFORE HER LADYSHIP, JUSTICE GIFTY AGYEI ADDO JA, SITTING AS AN ADDITIONAL HIGH COURT JUDGE.

SUIT NO.: GJ/0415/2022

THE REPUBLIC

VERSUS

1. NATIONAL HOUSE OF CHIEFS AND 2 OTHERS
2. GREATER ACCRA REGIONAL HOUSE OF CHIEFS
3. GA TRADITIONAL COUNCIL

RESPONDENTS

EX PARTE: NII ABRAHAM OKINE NUNOO

APPLICANT

NII AHELE NUNOO III

INTERESTED PARTY

JUDGMENT

INTRODUCTION

The High Court exercises supervisory jurisdiction over all courts below it and other lower adjudicating authorities in ensuring that they act in tune with the law pursuant to **Article 141** of the **Constitution of the Republic of Ghana, 1992**.

Article 141 of the 1992 Constitution provides:

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26-4-2023

The High Court shall have supervisory jurisdiction over all lower courts and any lower adjudicating authority; and may, in the exercise of that jurisdiction, issue orders and directions for the purpose of enforcing or securing the enforcement of its supervisory powers.

As further detailed under the **Courts Act, 1993 (Act 459)**, in enforcing or securing the enforcement of the supervisory powers of this Court, the Court can issue orders or directions in the nature of the prerogative writs, to wit: certiorari, prohibition, habeas corpus, mandamus and quo warranto.

THE LAW ON THE SUPERVISORY JURISDICTION OF THE COURT

For an Applicant to succeed in an application invoking the supervisory jurisdiction of this Court, the Applicant is obliged, by the settled precedent, to demonstrate that his or her matter falls under any of the known grounds for invoking the jurisdiction of the Court. Per the authorities, these grounds are breaches of the rules of natural justice, error of law patent on the face of the record, lack or excess of jurisdiction and the Wednesbury Principle (that is illegality, irrationality and procedural impropriety principle).

For as was observed by the Supreme Court in the case of **THE REPUBLIC VRS: HIGH COURT, ACCRA; EX PARTE GHANA MEDICAL ASSOCIATION (ARCMANN-ACKUMMEY INTERESTED PARTY) 2012 2 SCGLR 768** at page 778:

The grounds upon which this court proceeds to grant application of this nature, following the authorities are: want or excess of jurisdiction; where there is an error of law on the face of the record; failure to comply with the rules of natural justice; and breach of the Wednesbury principle, namely,

that an administrative action or decision would be subject to judicial review on the grounds that it was illegal, irregular or procedurally improper.

Further, per **Order 55 Rule 4 (2) (C)** and **5 (4)** of the **High Court (Civil Procedure) Rules, 2004 (C.I 47)**, the rules require an Applicant's supporting affidavit to disclose not only the reliefs or remedies being sought but also the grounds on which he or she seeks the said reliefs or remedies.

Besides, an Applicant invoking the Court's supervisory jurisdiction is prohibited from relying on any ground, at the hearing of the application, not set out in the affidavit in support of the application, except pursuant to leave of the Court for that purpose.

In the instant case, the Applicant invokes the supervisory jurisdiction of this Court by way of certiorari. The grounds upon which certiorari may be granted by this Court to quash a decision of a court below or any adjudicatory authority are as follows:

1. A breach of the rules of natural justice.
2. Jurisdictional errors.
3. Violation of the Wednesbury principles.

It is pedestrian that the breach of the rules of national justice is made up of the Audi Alteram Partem Rule, meaning hearing both sides of a case and the Nemo Judex in Causa Sua Rule, also meaning that a decision maker must not be a judge in his or her own cause.

It is also pedestrian that the Wednesbury principles are made of illegality, irrationality and procedural impropriety. For all of these, see the cases of **REPUBLIC VRS: HIGH COURT BOLGATANGA; EX PARTE HAWA**

YAKUBU (2001-2002) SCGLR 53; REPUBLIC VRS: COURT OF APPEAL; THOMFORD, EX PARTE GHANA CHARTERED INSTITUTE OF BANKERS (2011) 2 SGLR 941; REPUBLIC VRS: HIGH COURT DENU; EX PARTE AVADALEY IV (1993-1994) 1 GLR 561 and ASSOCIATED PROVINCIAL HOUSES LIMITED VRS: WEDNESBURY CORPERATION (1948) 1 KB 223.

THE FACTS UPON WHICH THE APPLICANT RELIES IN THIS APPLICATION

On 24th January 2022, the Applicant herein invoked the supervisory jurisdiction of this Honorable Court pursuant to **Article 141** of the 1992 Constitution. The Applicant seeks an order of certiorari to bring up to be quashed the decision of the National House of Chiefs, the Greater Accra Regional House of Chiefs and Ga Traditional Council. The Applicant, per the motion paper, seeks the order by reason of the Respondents' alleged recognition and gazetting of the Interested Party herein as the Abola Mantse.

Per his amended affidavit in support of the application filed on 9th June 2022, (pursuant to leave of the Court dated 2nd June 2022) in support of the application, it is case of the Applicant that he instituted an action in the Judicial Committee of the Ga Traditional Council to challenge the nomination, installation and outdoor of the Interested Party as Abola Mantse.

The Applicant provided Exhibit ABM 1 as evidence of the suit he filed at the Judicial Committee of the Ga Traditional Council. The Applicant continues that he applied for an order for interlocutory injunction which he claims is still pending. He again provided a copy of the application for an order for interlocutory injunction as Exhibit ABM 2.

The Applicant deposes further that while the suit in the Judicial Committee of the Ga Traditional Council is still pending, he has reliable information that the Interested Party has been recognised and gazetted as the Abola Mantse. Exhibit ABM 3 series is a search report which is the Applicant's means of proof of the said recognition and gazettement of the Interested Party as Abola Mantse.

It is also the case of the Applicant that the acting Chairman of the Ga Traditional Council, one Nii Dodoo Nsaki, and subsequently a panel member of the Judicial Committee hearing the suit against the Interested Party was the one who signed the forms sent to the Greater Accra Regional House of Chiefs.

It is alleged further by the Applicant that the said Nii Dodoo Nsaki II is married to the daughter of the Interested Party, one Naa Ahema Nunoo and so abused his position in favour of the Interested Party against him, the Applicant. It is also contended by the Applicant that the Interested Party, with the support of Nii Dodoo Nsaki II and the Ga Traditional Council, have perverted justice by their action.

Further that the recognition and the gazettement of the Interested Party is illegal by reason that there is a suit pending challenging the position of the Interested Party as Abola Mantse. It is the Applicant's case further that Nii Dodoo Nsaki knowingly and intentionally suppressed material information to be given to the Greater Accra Regional House of Chiefs when he stated that there was no suit pending before the Judicial Committee of the Ga Traditional Council challenging the position of the Interested Party as Abola Mantse.

The Applicant accuses the Greater Accra Regional House of Chiefs for failing to do due diligence to ascertain the veracity of the statement from the then acting Chairman of the Ga Traditional Council and rather relied on his assertion to

forward the application forms towards the recognition and gazetting of the Interested Party as Abola Mantse to the National House of Chiefs.

To the Applicant, he will not get a fair hearing as the Judicial Committee of the Ga Traditional Council has shown clearly that it has already decided the case in favour of the Interested Party without hearing him, the Applicant.

The records of the Court indicate that the Respondents were served with the instant application. However, they did not file any process in the suit. They also chose to absent themselves from Court in respect of all proceedings in the suit without placing any reasons before the Court for their absence, although they were always notified of proceedings in Court by way of service of hearing notices on them.

THE CASE OF THE INTERESTED PARTY

By an 18 paragraphed affidavit filed on 18th February 2022, the Interested Party opposed the application. He deposed that the application, in essence, has been brought for an order to quash the decision to insert his name in the National Register of Chiefs and thereby removing his name from the said register.

Further, according to the Interested Party, this Honorable Court cannot by a writ of certiorari remove his name from the National Register of Chiefs. The Interested Party contended further that assuming without admitting that this Honorable Court could make an order for the removal of his name from the National Register of Chiefs, by a writ of certiorari, the Applicant has failed to demonstrate the requirement for the grant of same.

The interested Party further deposed that the Applicant has failed to demonstrate that there was a case challenging his enstoolment as Abola Mantse as the time his CD forms were signed by the said Nii Dodoo Nsaki as alleged. The Interested

Party asserted that the Applicant has failed to demonstrate any legal, procedural or administrative infringement in the process of the registration of his name in the National Register of Chiefs.

The Interested Party further denied the allegation of bias and prejudice against Nii Dodoo Nsaki and the Judicial Committee of the Ga Traditional Council. To the Interested Party, the instant application does not seek to quash any judicial act of the Judicial Committee of the Ga Traditional Council but rather the administrative act of the entry of his name in the National Register of Chiefs.

It is the further case of the Interested Party that Nii Dodoo Nsaki acted within the bounds of the law when he signed his CD forms as the acting President of the Ga Traditional Council. Also, according to the Interested Party, the Applicant has failed to demonstrate that this is a proper case for this Court to grant the reliefs he seeks, assuming without admitting that this Court has jurisdiction to grant same.

THE COURT'S EVALUATION

Both the Applicant and Interested Party addressed the Court in a written statement of their respective cases.

Per the statement of case of the Applicant, a number of cases were cited to the Court. They include the case of **THE REPUBLIC VRS: HIGH COURT, ACCRA; EX PARTE COMMISSION ON HUMAN RIGHTS AND ADMINISTRATIVE JUSTICE (ADDO) INTERESTED PARTY (2003-2004) 1 SCGRL 312**, to remind the Court that an application for judicial review must commence at the High Court.

The Applicant also cited to the Court the case of **THE REPUBLIC VRS: HIGH COURT, ACCRA; EX PARTE ARYEETAY (ANKRAH INTERESTED PARTY) (2003-2004) 1 SCGRL 398**, to mention a few.

In the view of this Court, it is the cases cited to the Court by the Interested Party that raises jurisdictional issues which of course will then go to the root of the matter that should first be determined. The Court also cannot gloss over paragraph 17 of the Interested Party's affidavit in response that implicitly challenges the jurisdiction of this Court to entertain the present application or suit on its merits.

The Court has carefully considered the cases cited to it by the Interested Party on the jurisdictional question. I will first deal with the jurisdictional question in that in the event I make a determination that this Court has no jurisdiction to entertain the instant application, then no useful purpose will be served to interrogate the merits of the case.

In the case of **ATTORNEY GENERAL (NO. 2) VRS: TSATSU TSIKITA (NO. 2) [2001-2002] SCGLR 620**, Acquah JSC (as he then was) at page 646 of the report held that:

.....Jurisdiction is so fundamental that its absence in a Court renders the Court's proceedings nothing but a nullity. It is therefore trite knowledge that the first duty of every Judge in any proceedings is to satisfy himself that he has jurisdiction in the matter before him.

Further, in the Supreme Court case of **EBUSUAPANYIN YAW STEPHENS VRS: KWESI APOH [2010] 2 MLRG**, his Lordship Anin Yeboah JSC (as he then was) stated succinctly at page 26 of the report as follows:

It is therefore the law that if the action succeeds on a plea of limitation, lack of jurisdiction, or lack of locus standi, the Trial Court for that matter the Appellate Court should not proceed to determine the merits of the case irrespective of the evidence.

In respect of the jurisdictional issue raised by the Interested Party, this is what the Apex Court of our land has had to say in the case of the **REPUBLIC VRS: CENTRAL REGIONAL HOUSE OF CHIEFS AND OTHERS, EX PARTE GYAN IX (ANDOH X-INTERESTED PARTY) (2013-2014) 2 SCGLR 845** at 856:

The duty of the National House of Chiefs in the Registration process, namely entering the names of chiefs in the register and recording such particulars was discretionary and administrative and not judicial. **Because the act of registration did not constitute adjudicatory acts, such acts were not amenable to the writ of certiorari.**

A dissatisfied party cannot rely on certiorari to quash such a decision. This is because all these functions involve factual recordings and do not extend to any adjudication on the merits. (My emphasis).

Further, in the case of **THE REPUBLIC VRS: THE REGISTRAR AND PRESIDENT OF THE NATIONAL HOUSE OF CHIEFS AND ANOTHER; EX PARTE EBUSUAPANIN KOJO YAMOAH. CIVIL APPEAL NUMBER 14/45/2017**, dated 25th July 2018, the Apex Court of the land held as follows:

It is trite that the Regional and National House of Chiefs perform both judicial and administrative functions and that in the performance of their administrative functions the courts are not supposed to interfere by the issue of prerogative orders like certiorari. The judicial functions of the Houses of

Chiefs are performed by their judicial committees established for that purpose whilst the administrative functions are performed by the Houses in plenary through the Presidents and/or the Registrars with the assistance of their research and standing committees. The administrative functions of the respondent herein are provided under article 272 of the Constitution, 1992, whilst that of the Regional Houses of Chiefs are provided under article 274 (3) of the Constitution. One of such administrative functions is the registration of chiefs who have been properly installed as such in the Register and the deletion of the names of chiefs who have ceased to be chiefs or on the orders of appropriate legal authority. The authorities have, however expressed that the courts can intervene where the said institutions act ultra-vires the powers conferred on them by the Constitution and the Act; i.e. [Act 759] in the performance of their administrative functions.

It is the respectful view of this Court that having perused the entirety of the supporting affidavit of the Applicant as well as the authorities cited to it in its statement of case, the Applicant has not been able to demonstrate to this Court that the Respondents against whom the application has been brought as principal parties have acted ultra vires the powers conferred on them by the Constitution 1992 and the **Courts Act, 1993 (Act 459)** in the performance of their administrative functions.

The Court however is persuaded by the authorities cited to it by the learned Counsel for the Interested Party. These authorities, to which this Court is bound by the principles of stare decisis, hold that in the performance of the administrative functions of the Respondents, their said administrative functions, other than their judicial functions, are not amenable to a writ of certiorari or other prerogative orders of our courts.

The Court finds from the affidavit evidence before it that the accusation leveled against the Respondents do not concern any judicial functions alleged to have been performed by each of them. Indeed, the Ga Traditional Council, the Greater Accra Regional House of Chiefs and the National House of Chiefs all perform administrative functions.

CONCLUSION

By reason of the views expressed, this Court cannot issue against the Respondents a writ of certiorari to bring up to be quashed the administrative functions they each performed and for which the Applicant is aggrieved. The application is thus dismissed in terms of the urge on this Court by the Applicant to issue a writ of certiorari are against the Respondents.

Costs of GHC3,000.00 in favour of the Interested Party against the Applicant.

(SGD.)

**JUSTICE GIFTY AGYEI ADDO
JUSTICE OF THE COURT OF APPEAL.**

COUNSEL

FRANK KOMLA MENSAH FOR THE APPLICANT.

GEORGE HEWARD-MILLS FOR THE INTERESTED PARTY.

NO LEGAL REPRESENTATION FOR THE RESPONDENTS.

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