

IN THE SUPERIOR COURT OF JUDICATURE; IN THE HIGH COURT OF JUSTICE HELD AT KUMASI ON THURSDAY THE 24<sup>TH</sup> DAY OF JULY 2025, BEFORE HIS LORDSHIP DR. POKU ADUSEI, JA. SITTING AS AN ADDITIONAL HIGH COURT JUDGE.

SUIT NO. ASH/ADK/HC/E1/177/25

**ABUSUAPANYIN ODENEHO ODHYEE NANABA KWABENA BADU** SUING FOR AND ON BEHALF OF HUAHI ACHAMA TUTUWAA ROYAL FAMILY OF **BOADI** PER HIS LAWFUL ATTORNEY **NANA KWESI OSEI BONSU** OF HOUSE No. PLOT 10 BLOCK K, BOADI

- PLAINTIFF

VRS

**1. KWAME NKUMAH UNIVERSITY OF SCIENCE & TECHNOLOGY (KNUST)**  
(OFFICE OF THE VICE-CHANCELLOR)  
KNUST CAMPUS, KUMASI)

- DEFENDANTS

**2. LAND COMMISSION**  
(REGIONAL OFFICE, KUMASI)

**PARTIES:**

PLAINTIFF - ABSENT  
DEFENDANTS - ABSENT

**LEGAL REPRESENTATION:**

ELIJAH BONSU-TURKSON ESQ., FOR NANA OPPONG ESQ, FOR PLAINTIFF/APPLICANT IS PRESENT  
KWABENA YEBOAH ASUAMA JNR. ESQ, FOR DEFENDANTS/RESPONDENTS IS PRESENT

**COUNSEL FOR PLAINTIFF/APPLICANT:** My lord, before you is a motion on notice for interlocutory injunction. I move in terms of the motion paper,

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*(Signature)*  
**THE REGISTRAR  
HIGH COURT  
KUMASI**

the supporting affidavit and its annexures filed on 07/07/2025. We rely on all the depositions contained in the affidavit in support and same in simple terms that per the Supreme Court decision in **The Republic v Court of Appeal Ex-parte Tsatsu Tsikata [2005-2006] SCGLR at page 614**. The failure of the Respondent to file an affidavit in opposition means in law that they had admitted all the facts contained in the affidavit in support. We therefore pray the court to grant the instant application to restrain the defendant and their assigns from any further interference with the land, which is the subject matter of the suit pendente lite. We humbly pray.

**COUNSEL FOR 1<sup>ST</sup> DEFENDANT/RESPONDENT:** My lord, I seek leave to respond to the point of law. The capacity of the Plaintiff herein to depose to the said affidavit in support of the injunction application is questionable. Firstly, the Plaintiff has given power of attorney to one Nana Kwasi Osei-Bonsu and therefore cannot swear to affidavit for injunction. There is also an issue of locus standi of the Plaintiff deposing to the affidavit when he has given power of attorney to Nana Kwasi Osei-Bonsu. Secondly, under Order 20 Rule 14 of C.I 47 (read). Thirdly, the action is being brought by the Plaintiff as owner of the disputed land. In proving ownership, the Plaintiff attached a cadastral plan to their application in support of affidavit in support. A cadastral plan is not proof of ownership. Fourthly, if mindful of granting this application, the Plaintiff should give an undertaking that in the event of losing the case, the 1<sup>st</sup> Defendant would be compensated.

**BY COURT:** This is an application for interlocutory orders of the court pending determination of an action claiming ownership of 1298.33 acres of land located at Boadi, Kumasi from the 1<sup>st</sup> Defendant. The application is brought pursuant to Order 25 of C.I. 47 which vests the court with the discretion to hold the scale of justice evenly balanced in such situations. In the exercise of such discretion however, the court is to be guided whether the case of the applicant is not frivolous and that the applicant had demonstrated that he has a legal or suitable right, which a court should protect. Secondly, the court has to ensure that the status quo is maintained so as to avoid any irreparable damage to the

applicant pending the determination of the substantive matter. Thirdly, the court ought to consider the balance of convenience and should refused the application if its grant will course serious hardship to the other party. In the instant case the applicant has sworn to any affidavit in which they have shown significant infrastructural development on the disputed land towards educational purposes.

The 1<sup>st</sup> Respondent however did not file an affidavit in opposition to the application but merely raised four points of Law in opposition. All those four points are without merit whatsoever. The issue of the capacity of the deponent for the Plaintiff is misguided since a party cannot be limited on who he may call to testify in his matter.

Secondly, also the absence of certification of exhibits under Order 20 rule 14 of C.I. 47 is as to form and not substance. It is curable under order 81 of C.I. 47 since the ensure of the rules is to ensure substantive justice. As secondary rules this Court may waive then unless the breach goes to jurisdiction, violates the constitution or a substantive legislation.

***See Monica Odelie v Mensah J8/81/2024, Adjei Frimpong JSC Gyedu Frimpong & Ors v Gyan Cudjoe & 2 Ors J8/81/18/2025 Kuledi JSC.***

Thirdly, the contention about establishing ownership at this point is premature and same is misplaced. Now onto the balance of convenience in this matter, I am persuaded not to stall the operations of a public university in terms of its infrastructure and imperil third party interest since the Plaintiff upon being successful could be compensated. The balance of convenience weighs in favour of the 1<sup>st</sup> Defendant in the circumstances, ***See 18<sup>th</sup> July Ltd, v Yehans International Ltd [2007-2008] 2 SCGLR 870.*** Also I am minded to order the 1<sup>st</sup> Defendant to undertake to pay compensation of GH¢1,000,000 to the Plaintiff should their action succeed against it. As such, the 1<sup>st</sup> Defendant shall executed an undertaking to that effect at the registry of this Court within two weeks. In refusing this application, I order the parties to complete filing of their processes in order to ensure expedited trial of this matter. No orders as to cost.

(SGD)  
H/L DR. POKU ADUSEI  
(COURT OF APPEAL JUDGE)

JUDICIAL SERVICE

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*[Signature]*  
THE REGISTRAR  
HIGH COURT  
KUMASI