**IN THE SUPERIOR COURT OF JUDICATURE**

**IN THE SUPREME COURT**

**ACCRA – A.D. 2018**

**CORAM: PWAMANG, JSC SITTING AS A SINGLE JUDGE**

**WRIT NO.**
**J1/07/2018**

**11TH JULY, 2018**

1. DYNAMIC YOUTH MOVEMENT OF GHANA ..... 1ST PLAINTIFF/REPONDENT
2. EDWARD TUTTOR ..... 2ND PLAINTIFF/RESPONDENT
   HOUSE No. B.109 TEKLU BAAH STREET
   NII BOI MAN, ACCRA.

VRS

1. HON. KEN OFORI ATTA ..... 1ST DEFENDANT/APPLICANT
   (MIN. OF FINANCE)
2. COMMISSION ON HUMAN RIGHTS AND ADMINISTRATIVE JUSTICE (CHRAJ) ..... 2ND DEFENDANT/ RESPONDENT
3. THE ATTORNEY- GENERAL ..... 3RD DEFENDANT/APPLICANT

**RULING**

**PWAMANG, JSC:-**

In the substantive suit, the plaintiffs invoked the original jurisdiction of the Supreme Court for interpretation and enforcement of Articles 284 and 286 of the Constitution, 1992 among other provisions of the Constitution. The parties have filed their

respective statements of case. In the application before the court, the 1st and 3rd defendants are praying for leave to amend their joint statement of case. Applicants stated that after a close study of the report of the 2nd Defendant on the back of which plaintiffs mounted their action, the Defendants have decided to amend their statement of case to place the whole of their response before the court for determination.

The plaintiffs and 2nd defendant are opposed to the application. Plaintiffs contended that the application is not being made in good faith since the report of 2nd defendant has always been available to defendants. Plaintiffs further say that the intended amendment will lead to delay in the determination of the suit and take them by surprise. Their lawyer referred the court to the case of **YEBOA V BOFOUR [1971] 2 GLR 199 CA.**

The 2nd defendant has taken a technical objection to the application by arguing that the intended amendment is in defence of the 1st defendant whose personal conduct in the issuance of Government of Ghana bonds is in question. 2nd defendant says it will amount to a breach of Article 88 of the Constitution for the Attorney-General who is the legal advisor to the Government to defend the 1st defendant in the circumstances of this case. They referred the court to the case of **TSIKATA V CHIEF JUSTICE & AG [2001-2002] SCGLR 437.** The plaintiffs quickly associated themselves with the submissions of 2nd defendant on Article 88 of the Constitution.

In responds to the submissions on Article 88 learned Counsel representing the Attorney-General, Chief State Attorney, Sylvester Williams Esq argued that the role the 1st defendant's played in the issuance of the Government of Ghana bonds was in his capacity as a public officer so it is the Attorney-General who ought to represent him in court. He further stated that if 2nd defendant and plaintiff claim that the Attorney-General's representation of 1st defendant breaches Article 88 of the Constitution, then they have to properly invoke the jurisdiction of the Supreme Court duly constituted for a declaration to that effect.

I am in agreement with Mr Sylvester Williams that the allegation of breach of Article 88 of the constitution ought to be properly raised in accordance with the provisions

of the Constitution and the **Rules of the Supreme Court 1996, (CI 16).** Consequently I will over rule that objection.

On the substantive grounds on which the plaintiffs opposed the application, my view is that the purpose of **Rule 49 of CI 16** is to enable parties to put their whole case before the court for a complete and final determination and avoid multiplicity of suits which will be the result if amendments are disallowed without just cause. The case of **YEBOA V BOFOUR (supra)** that plaintiffs referred to states those amendments may be allowed at any stage of a case and even on appeal.

In have considered the grounds for the application for leave to amend and find merit in them. Accordingly, the application succeeds and same is granted.

**G. PWAMANG**
**(JUSTICE OF THE SUPREME COURT)**

**COUNSEL**

SYLVESTER WILLIAMS, CHIEF STATE ATTORNEY FOR THE 1ST AND 3RD DEFENDANTS/APPLICANTS.

OSMAN ALHASSAN FOR THE PLAINTIFFS/RESPONDENTS.

COSMOS AMPEGUO FOR THE 2ND DEFENDANT/RESPONDENT.