IN THE SUPERIOR COURT OF JUDICATURE
IN THE SUPREME COURT
ACCRA
AD-2016

CORAM: DOTSE JSC (PRESIDING)
GBADEGBE JSC
AKOTO-BAMFO (MRS) JSC
AKAMBA JSC
PWAMANG JSC

CIVIL APPEAL
NO: J4/31/2015

28TH JULY, 2016

MRS. ABENA POKUA ACKAH - PLAINTIFF/APPELLANT/

APPELLANT

VRS

AGRICULTURAL DEVELOPMENT - RESPONDENT/ RESPONDENT

BANK

RULING

By her application, the Applicant/Appellant/Appellant/Applicant, hereafter referred to as Applicant is praying this court to exercise its jurisdiction under article 129 (4) of the Constitution 1992 as well as under the inherent jurisdiction of this court for **an order to accept as part of the record for the purpose of**

hearing and determination the appeal filed by the Applicant herein, the judgment of the Court of Appeal dated 27th March 2014.

The Applicant swore to a 24 paragraphed affidavit in support of the application. The salient facts of the said depositions are as follows:-

1. That at the end of her appeal hearing against the High Court judgment, the Court of Appeal, Coram: Henrietta Abban J.A, presiding, K. A. Acquaye and Lovelace-Johnson JJA dismissed the said appeal and indicated that the reasons for the said judgment would be filed at the Registry of the Court.

2. After several months of waiting, they eventually were given certified true copies of the said judgment after really persistent efforts.

3. The crux of the depositions contained in the affidavit in support are that, there are at the moment three certified true copies of judgments in respect of the same appeal at the Court of Appeal dated as follows:-

    a. 5th March 2014
    b. 27th March 2014 and
    c. 10th April 2014

4. The appeal by the Applicant to this court against the court of Appeal judgment is the one dated 27th March 2014.

5. The Registrar of the Court of Appeal has failed and or refused to include the judgment dated 27th March 2014 in the appeal record before this court

despite the fact that it was the judgment against which the appeal was lodged.

6. That there are apparent differences in content of the various judgments especially that of the 27th March 2014 and 10th April 2014, wherefore the Applicant seeks an order of this court to have the said judgment of the 27th March 2014 also included in the record of appeal.

By further argument in support of the above depositions, learned counsel for the Applicant, Godfred Yeboah-Dame stated that this court has power under article 129 (4) of the Constitution 1992 as well as under its inherent jurisdiction to grant the orders prayed for.

We have perused the provisions in article 129 (4) and we are satisfied that this court has all the powers of the appeal court and in that respect, we can order a rectification or correction of the appeal record if the application is deserving of a grant.

On the other hand, learned counsel for the Respondents, Mrs. Sylvia Cudjoe vehemently opposed the application and referred the court to the affidavit in opposition sworn to by Jacob Aryee.

The salient points in the said depositions are as follows:-

1. The deponent therein, stated that no judgment was in fact delivered on the 27th March, 2014 as he was personally present in court and has attached various court proceedings to support their opposition.

2. Indeed, court proceedings dated 27/11/2013, 13/2/2014, 5/3/2014 and 27/3/2014 have been attached to the affidavit in opposition to indicate forcefully that no judgment was indeed delivered on the 27 /3/2014.

3. That the judgment dated 5/3/2014 was revoked by that of 10/4/2014 because it was composed of an irregular panel which did not hear the matter.

4. In paragraph 6 of the affidavit in opposition, Jacob Aryee deposed to the fact that the Respondents were also given copies of the judgment of the 27th March 2014.

Learned counsel for the Respondents, Mrs. Sylvia Cudjoe reiterated and emphasized the above grounds in her submissions before the court and urged us to refuse the application.

In considering the merits of the instant application, we have taken into account all the depositions and arguments of learned counsel in the matter. We have also taken note of the fact that the appeal record is before this court for adjudication of the appeal filed by the Applicant. It is the determination of the appeal that has led to the discovery of this mess in the Court of Appeal Registry. In order for us as the apex court to be seen to do justice to all persons who access justice, it is only fair that this Application be granted especially as can be seen from the depositions of the Respondent's in opposition to this application, they also had certified true copies of this 27th March, 2014 judgment of the Court of Appeal. It is accordingly ordered that the judgment dated 27th March, 2014 be hereby accepted as one of the judgments forming part of the record of the appeal before this Court for the hearing and determination of the appeal therein.

(SGD) V.J.M. DOTSE

JUSTICE OF THE SUPREME COURT

(SGD) N.S. GBADEGBE

JUSTICE OF THE SUPREME COURT

(SGD) V. AKOTO-BAMFO (MRS)

JUSTICE OF THE SUPREME COURT

(SGD) J.B. AKAMBA

JUSTICE OF THE SUPREME COURT

(SGD) G. PWAMANG

JUSTICE OF THE SUPREME COURT

COUNSEL:

GODFRED YEBOAH DAME FOR APPLICANT.

MRS. SYLVIA CUDJOE FOR RESPONDENT.