IN THE SUPERIOR COURT OF JUDICATURE

IN THE SUPREME COURT

ACCRA – A.D. 2019

CORAM: DOTSE, JSC (PRESIDING)

BAFFOE-BONNIE, JSC

BENIN, JSC

DORDZIE (MRS), JSC

AMEGATCHER, JSC

CIVIL APPEAL

NO. J4/32/2018

30TH JANUARY, 2019

THE REPUBLIC

VRS

1. NATIONAL HOUSE OF CHIEFS, KUMASI
2. WESTERN REGION HOUSE OF CHIEFS, SEKONDI
3. COMMITTEE OF ENQUIRY ……. RESPONDENTS/RESPONDENTS

EX-PARTE: AHANTA TRADITIONAL COUNCIL ……. APPLICANT/APPELLANT

OSAHENE KATAKYI BUSUMAKURA III ……. INTERESTED PARTY/RESPONDENT

JUDGMENT

AMEGATCHER, JSC:-

This appeal is about the elevation of a divisional stool to the status of paramountcy in the Western Region of the Republic of Ghana. The distinguished retired justice of

the Supreme Court of Ghana and jurist Justice Stephen Alan Brobbey in his book: The Law of Chieftaincy in Ghana, 1st edition, 2008 researched into how paramountcy is created and concluded at page 15 as follows:

'It would appear that the paramount status comes into being by about three methods: The first is by the traditional process of installation; the second is elevation by an overlord and the third is by a legislative instrument elevating the chief below paramount status to the status of a paramount chief'.

Armed with the benefit of this research, we proceed to deal with this appeal on this traditional time-honoured but evolving institution in Ghana. Osahene Katakyi Busumakura III, hereafter called the Interested Party is the Chief of Takoradi. The stool of Takoradi is a divisional stool under the Ahanta Traditional Council, the Appellant in this case. On 16th April 2009, the Interested Party wrote a petition to the President of the National House of Chiefs, the 1st Respondent herein, to restore Takoradiman Divisional Stool to the status of Paramountcy. On receipt of the petition, the 1st Respondent wrote to the Western Regional House of Chiefs, the 2nd Respondent in this appeal, referring the petition to it for its comments and advice since Takoradi falls within the jurisdiction of that regional house. The 2nd Respondent also on receipt of the reference from the1st Respondent set up a committee of enquiry, the 3rd Respondent, to consider the petition and advise it.

The Appellant was not happy with the petition, referred by the 1st Respondent to the 2nd Respondent and the subsequent setting up of the 3rd Respondent. On 11th April 2012, the Appellant brought at application before the High Court, Sekondi for the following reliefs:

i.) A declaration that the 1st Respondent without any reference to it for advice by a person or authority charged with responsibility to deal with any matter relating to or affecting chieftaincy under the 1992 Constitution or by statute; cannot of its own [volition] cause any investigation or enquiry into any matter related to or affecting chieftaincy.

ii.) A declaration that the 1st Respondent's referral of the Interested Party's application for elevation from a Divisional

stool to a Paramount stool to the 2nd Respondent for its comments and advise is wrongful in law in that no person or authority charged with responsibility under the 1992 Constitution or any statute to deal [with] any matter related to or affecting chieftaincy had requested for advice on the Interested Party's application.

iii.) An order prohibiting the 3rd Respondent from embarking upon the enquiry regarding the Interested Party's application praying for elevation from a Divisional stool to that of a paramountcy.

The application was supported by a 15-paragraph affidavit, the summary of which deposed to the fact that the 1st Respondent on its own volition could not cause any enquiry or investigation into any matter relating to or affecting chieftaincy unless a person or authority charged with responsibility under the 1992 Constitution or statute to deal with chieftaincy had requested for advice on the matter. It is the submission of the Appellant that short of this, any steps as in the petition by the Interested Party to the 1st Respondent and the referral to the 2nd Respondent as well as the subsequent setting up of the 3rd Respondent committee of enquiry were all wrongful in law. The application as expected was strongly opposed by the Interested Party and the Respondents.

In its judgment dated 29th May 2015, the High Court, Sekondi presided over by Amoako Asante, J., upheld the application of the Appellant and ruled that the Interested Party is not one of those authorities contemplated by the Constitution and the Chieftaincy Act to invoke the constitutional function of the 1st Respondent, and therefore, the setting up of the 3rd Respondent committee of enquiry by the 2nd Respondent was improper and not mandated by any law. The High Court, then, granted an order prohibiting the 3rd Respondent from carrying out the duties for which it was set up.

Dissatisfied with the decision of the High Court, the Interested Party on 24th June 2015 appealed to the Court of Appeal. The Court of Appeal sitting at Cape Coast in its judgment of 27th March 2017 allowed the appeal and set aside the order of prohibition against the 3rd Respondent. It is from the Court

of Appeal's judgment that the Appellant has appealed to this court to restore the order of prohibition restraining the 3rd Respondent from considering (on behalf of the 2nd Respondent) the petition of the Interested Party referred to it by the 1st Respondent to give its comments and advice. The Appellant filed six grounds of appeal which are reproduced below:

a.) The Court of Appeal erred in law by holding that the 1st Respondent/Appellant/Respondent under Article 272 (a) of the 1992 Constitution and Section 3 (1) (a) of the Chieftaincy Act of 2008 (Act 259) did not need an instigation of a person or authority charged with the responsibility of any matter relating to or affecting chieftaincy.

b.) The holding by the Court of Appeal that whatever the 1st and 2nd Respondents/Appellants/Respondents did, based on Exhibits NBB1 and NBB2 and the decision of the 2nd Appellant to set up the 3rd Appellant were all done in compliance with the law.

c.) The decision of the Court of Appeal that 3rd Respondent was not set up to act judicially was wrong in law.

d.) The Court of Appeal erred in law by holding that the grant of the order for prohibition issued against the 3rd Respondent/Appellant/Respondent amounted to preventing the 1st and 2nd Respondent/Appellant/Respondent from performing their statutory duties.

e.) The Court of Appeal erred in law by considering the additional grounds of appeal filed by the 1st, 2nd and 3rd Respondent/Appellant/Respondent and the Interested Party Appellant/Respondent.

We have carefully reviewed the judgment of the Court of Appeal, the grounds of appeal filed to this Court and the statement of case filed by the parties. In our view, the main issue in this appeal is whether the 1st Respondent is clothed with jurisdiction to receive a petition from persons like the Interested Party and refer same to the 2nd Respondent for advice within the provisions of Article 272(a) of the 1992 Constitution and Section 3(1)(a) of the Chieftaincy Act, 2008 (Act 759).

Conversely, whether the 2nd Respondent could set up the 3rd Respondent committee of enquiry to advise it on the petition referred to it by the 1st Respondent.

The Appellant has argued in its statement of case that neither Article 272(a) of the 1992 Constitution nor Section 3(1)(a) of the Chieftaincy Act, 2008 (Act 759) expressly or by necessary implication clothed the 1st Respondent with jurisdiction to receive such a petition. They further, submitted that the 2nd Respondent was also not clothed with jurisdiction to receive and consider the petition by the Interested Party. In the view of the Appellant, the Interested Party is not the proper person to ask for the restoration or elevation of his stool to the status of a paramount stool without a referral by the persons and authorities named in Section 9(3) of the Chieftaincy Act. It is the submission of the Appellant that Exhibit NBB1 was not addressed to any person or authority as contemplated by Article 272(a) and Section 9(2)(a) and (3) of the Chieftaincy Act, 2008 (Act 759) but rather to the President of the National House of Chiefs. In the eyes of the Appellant, the phrase "person or an authority charged with the responsibility under this Constitution or any other law for any matter relating to or affecting chieftaincy" that could refer a matter relating to chieftaincy for advice should be limited to the sector Minister responsible for Chieftaincy, Parliament, the President and certain statutory bodies. The Appellant, further, submitted that the creation of a paramount stool can neither be the preserve and prerogative of the National House of Chiefs, 1st Respondent nor the Regional House of Chiefs, the 2nd Respondent. The Appellant concluded that the creation or elevation to paramountcy must come from the top and not the bottom because paramountcy goes along with the provision of an office and staff which are all borne by the Central Government.

The Court of Appeal reviewed the law and the phrase "person or authority" quoted above and concluded that under the law, the 1st Respondent's duty will come to play when someone or an organisation makes a complaint or sends a petition to it on a matter related to or affecting chieftaincy. The Court of Appeal identified the Interested Party as one of such persons who could send a petition because of the title he holds as a traditional ruler. According to the Court of Appeal, the petition of the Interested Party which is seeking consideration for restoration to its former

status was a call on the 1st Respondent to perform its functions under law. In the words of the Court of Appeal, the meaning being put on Article 272(a) and section 3(1)(a) of the Chieftaincy Act, 2008 (Act 759)

" by the trial court, is not only incorrect, but will amount to stretching the words in those provisions beyond breaking limits".

The Court of Appeal also found that the reasons given by the trial judge in granting the prohibition against the 3rd Respondent was based on his lack of appreciation of the law as far as the function of the 1st and 2nd Respondents were concerned. The Court of Appeal then concluded:

"the National House of Chiefs, before it can amend the Register of Chiefs under section 14(3) of Act 759 or issue a legislative instrument under section 6(1) of the Chieftaincy Act 2008 (Act 759), is required under section 14(3) of the Act to consult the appropriate Regional House. It was, therefore, in accordance with these provisions that, upon receipt of exhibit "NBB1", it referred it to the Western Regional House of Chiefs, the 2nd appellant in this case, who under section 9(3) of the Chieftaincy Act 2008 (Act 759), was duty bound to consider it and submit a report.....Whatever the 1st and 2nd appellants did, based on exhibit "NBB1" and "NBB2", and the decision of the 2nd appellant to set up the 3rd appellant , were all done in compliance with the law.....The 3rd appellant was not called upon to decide on questions of law or fact but only to deliberate on the petition of the interested party/appellant and offer its comments and advice.....The order of prohibition issued against the 3rd appellant also amounted to preventing the 1st and 2nd appellants from performing their statutory duties. The appellants have, therefore, amply demonstrated why the judgment cannot be allowed to stand. The appeal, therefore, succeeds and the judgment of the High Court, Sekondi, dated 29th May 2015 is hereby set aside."

The Court of Appeal, however, did not define the scope of Article 272(a) and sections 3(1)(a) and 9(3) of the Chieftaincy Act. It is therefore the responsibility of this court to define the scope of the relevant words used in the Constitution and the statute to bring to the fore the real intention of the framers of the Constitution and

law-makers. The meaning and scope of the words "person" and "authority" will settle this dispute in terms of the merit or otherwise of the appeal before us.

Article 272(a) provides as follows:

272(a) The National House of Chiefs shall -

> ***(a) advise any person or authority charged with any responsibility under this Constitution or any other law for any matter relating to or affecting chieftaincy;***

Sections 3(1)(a) of the Chieftaincy Act provides that

3(1)(a) The National House shall

> ***(a) advise a person or an authority charged with a responsibility under the Constitution or any other law for any matter related to or affecting chieftaincy,***

Both the Constitution and the Act mentions 'person' and 'authority' charged with responsibility under the Constitution or any other law for any matter related to or affecting chieftaincy. When it comes to the provision of the Act relating to Regional House, section 9(a) repeats almost verbatim the same provision in Article 272(a) and section 3(1) (a) as follows:

9(1) Each Regional House shall,

> *(a)* ***advise a person or authority charged under the Constitution or any other law with responsibility for a matter relating to or affecting chieftaincy in the region.***

However, section 9(3) gave further responsibility to the Regional House which was not given to the National House as follows:

> ***(3) Where a matter is referred to a Regional House by the President, Parliament, or an authority in respect of a matter relating to chieftaincy, the Regional House shall give consideration to the matter and report on it as required.***

It is this provision in section 9(3) which emboldened counsel for the Appellant to submit before this court that the 'person' or 'authority' specified in the provisions referred to above in the Constitution and the Chieftaincy Act should be limited to the President, Parliament and the Minister responsible for Chieftaincy.

It is a basic rule of statutory construction that statutes must be read and construed as a whole in order to ascertain the true intention of the legislation and the mind of the law-maker. It therefore behoves on the judge to read each section, subsection, and clause of the parent Act and any instrument passed pursuant to the Act as a whole to understand and appreciate the true intention of the legislation. In this case, the responsibility assigned to the National and Regional Houses of Chiefs under Article 272(a) of the Constitution, Section 3(1)(a) and Section 9(1)(a) of the Chieftaincy Act is first, to 'advise a person' and secondly, 'advise an authority'. The person or authority must be 'charged with a responsibility under the Constitution or any other law' and the subject of the charge must relate to any matter relating to and affecting chieftaincy.

Section 76 of the Chieftaincy Act did not define 'a person', and 'an authority'. How then do we prevent conflicting meanings put on the words by parties who appear before the courts? This can be achieved by delving into the meaning of those words for the guidance of parties and courts.

The Black's Law Dictionary, 8th Edition defines a person as follows:

> ***"A human being- Also termed natural person. An entity (such as a corporation) that is recognised by law as having the rights and duties of a human being. • In this sense, the term includes partnerships and other associations, whether incorporated or unincorporated. "So far as legal theory is concerned, a person is any being whom the law regards as capable of rights and duties. Any being that is so capable is a person, whether a human being or not, and no being that is not so capable is a person, even though he be a man. Persons are the substances of which rights and duties are the attributes. It is only in this respect that persons possess juridical significance, and this is the***

exclusive point of view from which personality receives legal recognition." John Salmond, Jurisprudence 318 (Glanville L. Williams ed., 10th ed. 1947).

This definition by the Black's Law Dictionary is essentially to the effect that a person in law can include both a natural person, i.e., a human being, and an artificial person such as an entity or corporate body that is recognised by law.

This definition is consistent with the definition given by the **Interpretations Act 2009, (Act 792)** under section 46 in the following terms;

"person" includes a body corporate, whether corporation aggregate or corporation sole and an unincorporated body of persons as well as an individual;

Accordingly, in the Case of **New Patriotic Party v Attorney-General [1997-98] 1 GLR 378 – 461 (CIBA CASE),** where the meaning of the word "person" as used under article 2(1) of the 1992 Constitution was an issue before the court, the Supreme Court held in holding 1 as captured in the headnotes as follows;

"the proper role of the Interpretation Act, 1960 (CA 4) was that unless the contrary intention appeared in any enactment, the interpretation of words provided in CA 4 should be applied, except where the context in which the word was used would not permit such an interpretation or where the enactment itself provided an interpretation of any particular words used therein. A "person" was defined in section 32 of CA 4 to include a body corporate. Since that meaning fitted the context in which "person" was used in article 2(1) of the Constitution, 1992 there was no necessity for applying the canons of statutory interpretation to determine its meaning. Moreover, the word "person" had been defined in article 297 of the Constitution, 1992 to include a natural as well as a legal person or a corporate person such as the plaintiff..."

For avoidance of doubt, the said article 297 referred to by the court in the CIBA case mentioned above provides thus;

297(e) In this Constitution and in any other law-

Words importing male persons include female persons and corporations.

Authority on the other hand is defined in the **Osborn's Concise Law Dictionary, 7th Edition by Roger Bird** at page 40 in the following terms;

"(1) Delegated power; a right or rights invested in a person or body. ***An authority is a body charged with the power and duty of exercising prescribed functions, e.g. a local planning authority…" (emphasis mine)***

The **Oxford Dictionary of Law, Fourth Edition, 1997** also defines "authority" as; "1. Power delegated to a person or body to act in a particular way. **2. A governing body, such as a *local authority…" (*emphasis supplied)***

The above cited legal authorities and definitions given by the various dictionaries demonstrate that the word 'person' is not limited to a natural human being but also includes a corporate body or legal entity. Accordingly, on the advisory role played by the National and Regional Houses of Chiefs, the word 'person' as used in Article 272(a) of the Constitution and sections 3(1)(a) and 9(a) of the Chieftaincy Act can include any individual or corporation which is charged with a responsibility under the Constitution or any other law on matters affecting chieftaincy. Consequently, an example of such an individual can be chiefs whose names are on the National Register of Chiefs, the National House of Chiefs and the Regional Houses of Chiefs. Others include the Traditional Councils, the Divisional Chiefs and Councils, sub-divisional chiefs and *adikrofo*.

Further, the word 'authority' as used in article 272(a) of the Constitution and sections 3(1)(a) and 9(2)(a) of the Chieftaincy Act, 2008 (Act 759) is used in the context of an entity, body, agency or commission which is charged with a duty or responsibility affecting chieftaincy matters. Such authorities may include a Commission of Enquiry set up to address matters affecting Chieftaincy, the Presidency, Parliament, the Minister responsible for Chieftaincy and Culture and the Judicial Committees of the National and Regional Houses of Chiefs and Traditional Councils. Others include the Council of State when it is deliberating on issues affecting chieftaincy in Ghana and

local government bodies. Such an interpretation accords with the observation on the integration of chieftaincy in the Constitution as made in the **Report of the Committee of Experts on Proposals for a Draft Constitution of Ghana, July 31, 1991** at page 156 thus;

"339. It is worth recalling that Akuffo Addo Report recommended the integration of chieftaincy with the local government system. While the Committee would not go so far as to recommend such a radical step, it would nevertheless draw attention to the following:

1. ***Chieftaincy constitutes a major resource that could be officially tapped in reinforcing the modern governmental structure.***

2. ***Having regard to the high intellectual and professional calibre that the institution of chieftaincy attracts these days, chiefs may now be regarded as a significant source of talent for the modern sector.***

The related matters affecting chieftaincy appears not to be in dispute as same has been defined under section 76 of the Chieftaincy Act to include cause, matter, question or dispute relating to any of the following:

> ***(a) the nomination, election, selection or installation of a person as a chief or the claim of a person to be nominated, elected, selected or installed as a chief,***
>
> ***(b) the deposition or abdication of a chief,***
>
> ***(c) the right of a person to take part in the nomination, election, selection or installation of a person as a chief or in the deposition of a chief,***
>
> ***(d) the recovery or delivery of stool property in connection with the nomination, election, selection, installation, deposition or abdication of a chief, and***
>
> ***(e) the constitutional relations under customary law between chiefs;***

It is very clear from the intention of the framers of the Constitution and the law-makers that the responsibility given to the National and Regional Houses of Chiefs is to do everything within its power to preserve the customary practices of this revered institution in our culture. This is to be done by advising the individuals, bodies, and groups vested with the authority of state mentioned above whenever any cause,

matter, question or dispute relating to (among others) the claim of a person to be nominated, elected, selected or installed as a chief or the constitutional relations under customary law between chiefs.

Section 9(a) of the Chieftaincy Act, 2008 (Act 759), which specifically mentions referral of matters to a Regional House by the President, Parliament or an authority only charged the Regional Houses to give consideration to the reference by these authorities and report on it as required. This specific provision could be attributed to the important role these authorities play in the country. They are the first and second arms of state. The Presidency and Parliament should be furnished with information required expeditiously for decision-making processes and the making of relevant laws. In our view, the specific mentioning of the President and Parliament in section 9(3) will not take away the responsibilities assigned to the National and Regional Houses of Chiefs to advise other persons and authorities provided for in Article 272(a) of the Constitution and Section 3(1)(a) of the Chieftaincy Act explained above.

On the strength of the definition and scope of the various provisions explained above, it is our conclusion that the Stool of Takoradi represented by Osahene Katakyi Busumakura III, the Interested Party is one of the persons contemplated by Article 272(a) of the Constitution and section 3(1)(a) of the Chieftaincy Act with responsibility on a matter related to Chieftaincy. This conclusion is based on the fact that the Interested Party is a divisional chief in the Western Region and has responsibility under the Constitution and the Chieftaincy Act to act on matters relating to or affecting chieftaincy. Further, the stool of Takoradi occupied by the Interested Party is a divisional stool under the Ahanta Traditional Council and as such handles matters relating to or affecting chieftaincy in the divisional area.

The petition written by the Interested Party, Exhibit NBB1 to the President of the National House of Chiefs, the 1st Respondent to restore the stool of Takoradi to the status of paramountcy is a call on the 1st Respondent to advise it on the request for the elevation of the stool to paramountcy i.e., whether the request is in consonance with customary practices in the region and should be granted or declined. If the request is granted, the National House of Chiefs in the exercise of the powers vested

in it by section 6 of the Chieftaincy Act has to specify in a Legislative Instrument the membership of the Western Regional House of Chiefs. Section 6(1) of the Act provides that:

6. (1) In accordance with article 274 of the Constitution, the Regional House of Chiefs consists of members specified by legislative instrument made by the National House of Chiefs and issued under the signature of the President of the National House of Chiefs.

Currently, the Instrument on the membership of the Regional House is specified in the Chieftaincy (Members of Regional House of Chiefs) Instrument, 2008, L.I. … In that instrument, section 14(1) listed the paramountcies who are members of the Western Regional House of Chiefs. This did not include Takoradiman. If the Interested Party's prayer goes through all the processes successfully, the National House of Chiefs under section 14(3) of the Act after consultations with the Western Regional House of Chiefs would be required by law to amend the Regional Houses Instrument based on the assignments vested in it under the Constitution and the Chieftaincy Act. Section 14(3) states as follows:

14. (3) Where the National House is satisfied after consultation with the appropriate Regional House that a chief shall, or shall not, be a member of a Traditional Council, the National House shall amend the Register accordingly.

In sum, the Interested Party did not breach the law in writing Exhibit NBB1 to the National House of Chiefs. Equally so, the National House of Chiefs did not err in receiving the petition exhibit NBB1 from the Interested Party.

As we have pointed out above, the Appellant submitted that the National House of Chiefs, the 1st Respondent acted ultra vires by receiving and forwarding the Interested Party's petition to the Western Regional House of Chiefs for its advice on the request whether to restore Takoradiman to paramountcy or not. According to the Appellant, the petition should have been written to an authority like the Presidency, Parliament

or the Minister responsible for Chieftaincy and Culture who are the proper bodies to refer the petition to the National House of Chiefs for its advice. The Appellant seems to have lost sight of the fact that the institution of chieftaincy in the country has been going through dynamic changes. Under the current laws regulating the institution, governmental recognition and gazetting is no longer the requirement for the recognition and certification of chiefs in the country unlike the Chieftaincy Act, 1971 (Act 370) where section 48 provides as follows:.

(1) A Chief is an individual who has, in accordance with customary law, been nominated, elected and installed as a Chief or as the case may be appointed and installed as such and whose name for the time being appears as a Chief on the National Register of Chiefs:

Provided that no person shall be deemed to be a Chief for the purposes of the exercise by him of any function under this Act or under any other enactment, unless he has been recognised as such by the Minister by notice published in the Local Government Bulletin.

The change from political interference in who should or should not be a chief is clearly captured in Article 270 (1) and (2) of the Constitution as follows:

(1) The institution of chieftaincy, together with its traditional councils as established by customary law and usage, is hereby guaranteed.

(2) Parliament shall have no power to enact any law which-

> ***(a) confers on any person or authority the right to accord or withdraw recognition to or from a chief for any purpose whatsoever; or***
>
> ***(b) in any way detracts or derogates from the honour and dignity of the institution of chieftaincy.***

Clause 3 of the same article recognises the authority of the traditional council, a National and Regional Houses of Chiefs to determine the validity of the nomination, election, selection, installation or disposition of a person as a chief in accordance with the appropriate customary law and usage. The clause also vests the Traditional Councils, National and Regional Houses of Chiefs with power to operate a procedure for the registration of chiefs and public notification in the Gazette of the status of a person as a chief in Ghana. Therefore, to argue that any advice sought from the

National or a Regional House of Chiefs especially relating to the elevation of a stool to paramountcy could only come from political or governmental authorities will be setting the clock backwards and fly in the face of the very constitutional provision that has taken recognition of chiefs out of political hands and placed it squarely in the hands of the customary bodies. These customary bodies are well versed in the customs and usages and better suited to preserve this time-honoured traditional institution in Ghana.

We now discuss whether the remedy of prohibition will lie against the work of a body like the 3rd Respondent whose work is purely fact-finding and advisory. We have found that the Constitution and the chieftaincy law permits the National House of Chiefs to seek advice on any matter relating to and affecting chieftaincy from a Regional House of Chief. We have also found that section 9(4) of the Chieftaincy Act permits a Regional House of Chiefs to appoint committees comprising persons determined by it to assist in the performance of its functions, and may delegate to any of the committees the functions it deems fit. Will prohibition lie in respect of the above acts?

A committee of enquiry by its very nature merely makes recommendations upon facts it is seised with. These recommendations are non-binding and certainly have no final legal effect. Could one classify the 3rd Respondent committee of enquiry as an inferior tribunal where prohibition can be ordered to prevent an enquiry into whether or not by custom and historical fact Takoradi was once a paramount stool, and therefore its stool should now be accorded that elevation? It appears to us that if the committee had been allowed to complete its task and possibly had wandered outside its designated area or digressed away from its allotted task or strayed from the direct path which it was required to tread, then in any of those cases the High Court would be clothed with supervisory Jurisdiction to intervene in the Appellant's favour; but not before as this action appears to have been by this quia timet approach.

Prohibition is one of the writs or orders issued by the High Court in the exercise of its supervisory jurisdiction. Traditionally, it is directed at lower tribunals, administrative bodies and public adjudicating authorities forbidding them from acting contrary to law or outside their jurisdiction or in excess of their jurisdiction. Both the National and

Regional Houses of Chiefs are constitutional and statutory bodies set up by law with clearly defined functions. Therefore, could the 1st Respondent in receiving the petition from the Interested Party for advice and forwarding same to the 2nd Respondent for its comments and advice be said to be acting contrary to law or in contravention of or in excess of the statutory powers assigned to it. Conversely, could it be said that the 2nd Respondent in constituting the 3rd Respondent committee of enquiry to enquire into the petition and give its comments and advice acted without or in excess of its statutory powers and in the process contravened the law? The answers to these questions are obviously no.

The legal position is where the law assigns responsibility to an administrative body, such as the National or Regional Houses of Chiefs in this case, to perform a duty such as to advise or to set up committees to assist it in the performance of those functions or delegate part of those functions to the committees, it is enjoined to perform exactly those functions and prohibition will not lie against the body for so acting according to law. Consequently, it is our view that the High Court, Sekondi fell into a grievous error when it exercised its discretion to prohibit the 3rd Respondent from continuing with the enquiry commissioned by the 2nd Respondent. In the words of Selwyn LJ in **In re London Marine Insurance Association [1869] LR Ch. App 611 at 614** which we fully endorse:

"it is not the duty of a court of law to find ways in which the object of an Act of the Legislature may be defeated"

In our view, the Court of Appeal rightly applied the provisions of the Constitution and interpreted rightly the relevant sections of the Chieftaincy Act based on the facts in this case. We also endorse the reasoning of the Court of Appeal on ground 'e' on the consideration of the additional grounds filed by the Respondents and wholly adopt the said reasoning. We find no basis to disturb the conclusions reached by the Court of Appeal.

In the results, we find no merit in the appeal and same is dismissed.

N. A. AMEGATCHER
(JUSTICE OF THE SUPREME COURT)

DOTSE, JSC:-

I agree with the conclusion and reasoning of my brother Amegatcher, JSC.

J. V. M. DOTSE
(JUSTICE OF THE SUPREME COURT)

BAFFOE-BONNIE, JSC:-

I agree with the conclusion and reasoning of my brother Amegatcher, JSC.

P. BAFFOE-BONNIE
(JUSTICE OF THE SUPREME COURT)

BENIN, JSC:-

I agree with the conclusion and reasoning of my brother Amegatcher, JSC.

A. A. BENIN
(JUSTICE OF THE SUPREME COURT)

DORDZIE, JSC:-

I agree with the conclusion and reasoning of my brother Amegatcher, JSC.

M. A. DORDDIE (MRS.)
(JUSTICE OF THE SUPREME COURT)

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PHILIP NKRUMAH FOR THE 1ST, 2ND, 3RD RESPONDENTS AND INTERESTED PARTY.