IN THE SUPERIOR COURT OF JUDICATURE

IN THE SUPREME COURT

ACCRA- A.D. 2021

CORAM: YEBOAH, CJ (PRESIDING)

MARFUL-SAU, JSC

AMEGATCHER, JSC

OWUSU (MRS.), JSC

AMADU, JSC

CIVIL MOTION
NO. J5/05/2021

10TH FEBRUARY, 2021

THE REPUBLIC

VRS

HIGH COURT, COMMERCIAL DIVISION,
ACCRA ..... RESPONDENT

EX-PARTE: KWABENA DUFFOUR..... APPLICANT

ATTORNEY-GENERAL
AND 8 OTHERS ..... INTERESTED PARTIES

RULING

AMADU, JSC:-

(1) The application before the Court invokes the Court's supervisory jurisdiction against the ruling of the High Court dated the 30th day of July 2020. It is exhibited to the affidavit in support of the application and marked KD2. The ruling was delivered pursuant to an objection raised by the Applicant to the admission of some evidence emanating from the prosecution. This took place at the case management stage of the proceedings.

(2) The background to the ruling of the High Court is aptly summarized by reference to paragraphs 8 to 12 of the affidavit in support of the application wherein it is deposed as follows;

"8. That in the course of Case Management Conference the Trial Judge purported to admit documents into evidence prior to the commencement of the trial and in the absence of the witness through whom the Prosecution intends to tender these documents.

9. That owing to the absence of any express rules in the Criminal Procedure and Other Offences Act, 1960 (Act 30), the Evidence Act, 1975 (NRCD 323), or the Courts Act, 1993 (Act 459) for the conduct of Case Management and moreover for the

admission of evidence prior to trial, an objection was raised to the admission of evidence by defence counsel.

10. *That by a ruling dated the 30th day of July 2020, the Trial Judge overruled the objection and declared that the admission into evidence of the document tendered by the Prosecution on behalf of its intended witness did not violate the provisions of the Evidence Act, 1975 (NRCD 323). A copy of the 30th July ruling is attached hereto and marked Exhibit* KD2.

11. *That by a subsequent ruling and proceedings dated the 10th October, 2020 as well as proceedings for the 13th and 14th October, 2020, the Learned Trial Judge overruled further objections and continued to admit other documents into evidence when no witness has mounted the witness box to testify. All these documents have been admitted into evidence as exhibits marked or labeled accordingly. A copy of the ruling and proceedings are attached hereto and marked Exhibit KD 3.*

12. *The said rulings and subsequent admission of documents into evidence at this pre-trial stage were not warranted by any rule of law and procedure. They constitute a grave error of law which is fundamental on the face of the record."*

(3) The Applicant in the instant proceedings therefore complains about the Court's decision to admit into evidence documents emanating from the prosecution when trial had not yet begun and the parties were still before the Court for directions as to the course of the trial by way of case management. The application before the Court therefore raises the question as to the stage at which the trial court is by law empowered to admit or reject documents into evidence in proceedings before the Trial Court. Before dealing with the question raised by the application, the Court will note a few matters of procedure raised by the application.

(4) **THE APPLICATION.**

In the first ground of the application, the Applicant prays the Court for an order of ***"An order of Certiorari directed at the High Court (Commercial Division) Accra, sitting as a Criminal Court, to bring into this Court for the purposes of being quashed the decision of Justice P. Bright Mensah (JA) presiding as an additional High Court Judge in Suit No.CR/0248/2020 dated the 30TH JULY, 2020 and subsequent proceedings therein dated the 12th, 13th and 14th October, 2020 admitting documents into evidence prior to trial."***

(5) The Court's reading of the relief sought is that it seeks an order of certiorari to quash four (4) decisions in this application. The

convenience that the applicant's approach affords him is understood by the Court but the Court urges parties to have regard to the rules of the Court and also the directions of the Court when invoking the Court's jurisdiction for relief.

(6) In the case of **Republic Vs. High Court (Commercial Division) Accra, Ex parte Attorney General (NML Capital & Republic of Argentina-Interested Parties) [2013-2014] SCGLR 990,** Gbadegbe JSC whilst concurring in the judgment of Dr. Date-Bah JSC decided to add a few words of his own related to *(as reported in page 1030 of the report)* ***"a point of procedure, which … is of some importance to civil procedural law."***

(7) The Learned Justice observed that in several applications for judicial review in the nature of certiorari, the orders sought related not only to a single order, ruling or judgment but to multiple such orders, rulings or judgments and held as follows:-

"For the sake of convenience, the word order shall hereinafter in this opinion be employed to refer to order, ruling or judgment. Indeed, by the very formulation of Rule 61 (1) (b) of C.I. 16, the Supreme Court Rules, the applications to be good must relate to an order and not to orders. To suggest to the contrary would mean that such processes bear the description applications and not application. The reason for the rule is that every order, which

falls from the lips of a judge is either appealable or might be the subject matter of some other judicial correction such as certiorari or prohibition. Although in practice, applications for certiorari might be coupled with other orders- injunction and or prohibition for example, that part of the application which seeks judicial review in the nature of certiorari is limited to a single order of the court whose order is the subject matter of the application for judicial review.

In my opinion as every such order is a competent ground for an application for certiorari, better practice requires that each such order, from which an appeal might be filed creates a separate and distinct right in a party to apply. I am of the view that for this purpose the requirements of practice and procedure by which appeals are filed from single orders only, applies with equal force to applications for certiorari. It is observed that although in appropriate situations several applications pending before a court may be consolidated by the court on its own or upon the application of a party to the proceedings, the right to bring an application for certiorari in respect of more than a single order has never been left to the parties but appears from the practice of the court to be consequent upon the exercise of judicial discretion that is the sole preserve of a single judge or a panel of judges. When one goes through reported cases in this jurisdiction and elsewhere they turn on an order made by a court and or

other tribunal in the course of adjudication. While a single order might suffer from several grounds that render it amenable to certiorari, applications for certiorari are made in respect of an order and not orders."

(8) The application before the Court certainly offends the admonition contained in the ruling of Gbadegbe JSC referred to. As the instant application before the Court raises very crucial issues bordering on the right of the applicant to a fair trial as guaranteed by article 19 of the Constitution, this procedural glitch will be waived by the Court and the substance of the matter dealt with. The Court will proceed to deal with the issues raised by the application only after pointing out another matter of procedural concern. This is the manner in which the applicant has couched his grounds. In the first ground the applicant says that the application prays the Court for an order of ***"Certiorari directed at the High Court,...to bring into this Court for the purposes of being quashed the decision...dated the 30TH JULY, 2020 and subsequent proceedings the in dated the 12th, 13th and 14th OCTOBER, 2020..."***

(9) As a matter of practice, the relief is usually phrased to say that the applicant prays the court to bring up into the court for purposes of quashing and quashing the decision, the subject matter of the application. It usually does not end with the prayer to bring up into the Court for purposes of quashing. The purpose of quashing is

usually accompanied by an additional prayer to proceed to quash after the decision is brought up into the Court for purposes of quashing.

(10) It is also noted that the applicant's second relief prays the Court for an order ***"reversing the said rulings of the Respondent Court…which has admitted documents into evidence contrary to the provisions of the Evidence Act, NRCD 323)."*** The question which arises is simple. What is the difference between this relief and the first relief which prays the Court to quash the decisions of the Court the subject matter of the application? Quashing the decisions, the subject matter of the application means that the decision exists no more, what then is there to reverse?

(11) The Court also notes the only difference between the applicant's first and second reliefs is that the prayer for a reversal of the decisions may only be one of the directions, if necessary, that the Court may make pursuant to granting an application which invokes its supervisory jurisdiction over a decision of one of the other Superior Courts. This prayer for ***"reversal"*** is not one of the well-known reliefs that the Court grants in the exercise of its supervisory jurisdiction under article 132 of the 1992 Constitution of the Republic of Ghana. This relief is therefore better left as a consequential relief upon determination of the application.

(12) **GROUNDS OF THE APPLICATION.**

The applicant justifies the reliefs claimed in the application on five main grounds. They are also set out on the face of the motion paper as follows:-

"1. Grave error of law patent on the face of the record.

2. The Trial Judge grievously erred in adhering to the Practice Directions on Case Management in Criminal Proceedings, which are not binding on any court and which do not supersede the provisions of the 1992 Constitution of Ghana, the Criminal Other Offences Act, 1960 (Act 30), the Evidence Act, 1975 (NRCD 323), or the Courts Act, 1993 (Act 459).

3. The Trial Judge failed to consider that the admission of documents into evidence as part of a Case Management Conference is not provided for in Part III or in any Part of the Criminal and Other Offences Procedure Act, 1960 (Act 30), the Evidence Act, 1975 (NRCD 323), or the Courts Act, 1993 (Act 459) and that the provisions of the Acts cannot be amended by a Practice Direction.

4. The Trial Judge erred in ruling that the admission into evidence of a document on behalf of a witness who has not sworn an oath before the court and has not even appeared on the witness stand in court, does not violate section 61 of the Evidence Act, 1975 (NRCD 323).

5. The Trial Judge failed to consider the requirement under Section

61 of the Evidence Act, 1975 (NRCD 323) for an enactment or rule of law to alter the procedure for the admission of evidence."

(13) The manner in which the grounds are couched created difficulties for the applicant at the hearing of the application. The grounds on which the supervisory jurisdiction of the Court may be invoked has been stated ad nauseam. In the **Republic Vs. High Court, Accra Ex-parte; Ghana Medical Association (Chris Arcmann-Akummey-Interested Party) [2012]2 GLR 768**, the Court referred to its previous decision in **Republic Vs. Court of Appeal; Ex-parte Tsatsu Tsikata [2005-2006] SCGLR 612** and reiterated that the grounds upon which this court proceeds to exercise its supervisory jurisdiction are as follows;

1. Want or excess of jurisdiction.

2. Where there is an error of law on the face of the record.

3. Failure to comply with the rules of natural justice, and

4. The Wednesbury principles.

(14) The supervisory jurisdiction of the Court therefore exercised on grounds of error of law on the face of the record is well established. This is the subject of the Applicant's first ground for relief even though the error is described as *grave*. The rest of the grounds for

the application are expressed as if they were grounds of appeal rather than grounds on which the supervisory jurisdiction of the Court is invoked.

(15) The second ground of the application assails the High Court's decision on grounds of error by adhering to the Practice Directions on Case Management in Criminal Proceedings, which are not binding on any court and which do not supersede the provisions of the 1992 Constitution of Ghana, the Criminal Other Offences Act, 1960 (Act 30), the Evidence Act, 1975 (NRCD 323), or the Courts Act, 1993 (Act 459). This ground is not expressed as an error patent on the face of the record, or jurisdictional, failure to comply with the rules of natural justice or the Wednesbury principles.

(16) The third ground of the application is expressed in a similar manner. It states that the High Court failed to consider that the admission of documents into evidence as part of a Case Management Conference is not provided for in Part III or in any Part of the Criminal and Other Offences Procedure Act, 1960 (Act 30), the Evidence Act, 1975 (NRCD 323), or the Courts Act, 1993 (Act 459) and that the provisions of the Acts cannot be amended by a Practice Direction. So it is with the fourth and fifth grounds of appeal.

(17) Be that as it may, as the first ground of appeal states a well-known ground on which the Court will usually exercise its supervisory

jurisdiction. This is error of law on the face of the record. The Court has always pointed out that the error of law that necessitates the application invoking the supervisory jurisdiction of this Court must be a serious one. This was made clear by this Court in the Ex parte Tsikata case cited earlier. In that case Wood JSC *(as she then was)* held that:

"……It stands to reason then that the error(s) of law as alleged must be fundamental, substantial, material, grave or so serious as to go to the root of the matter. A minor, trifling, inconsequential or unimportant error which does not go to the core or root of the decision complained of; or, stated differently, on which the decision does not turn would not attract the courts supervisory jurisdiction." Per Georgina Wood JSC in the case of Republic Vs. Court of Appeal; ex parte Tsatsu Tsikata [2005-2006] SCGLR 612 at page 619.

(18) The case of Ex parte Tsikata was also cited by with approval in the case of Ex parte Ghana Medical Association referred to supra. That decision reiterated the law as stated by this Court that certiorari would lie to quash the decision of a superior court where such a court committed a serious error of law patent on the face of the record.

(19) The Applicant's first ground alleges a grave error in the decision of the High Court sought to be impugned in this application. It is in this

context that the Court will examine the application before the Court. This will be done by first examining the decision of the Court.

(20) **DECISION OF THE HIGH COURT.**

The part of the High Court's decision relevant to the instant application is reproduced below. The High Court held as follows;

"Now, by reason of the Supreme Court decision in Republic Vs. Baffoe-Bonnie, we have the Chief Justice Practice Direction to guide the courts to undertake Case Management Conference such as it has been provided for in the High Court (Civil Procedure) Rules, 2004 (C.I. 47).

The underlying rationale and objective of C.I.47 as provided in Order 1(2) of C.I.47 is that the rules shall be interpreted and applied to ensure or achieve speedy and effective justice and to avoid delays. This principle applies mutatis mutandis to summary criminal trials to achieve speedy and effective justice, without of course, sacrificing justice on the alter of expediency. Now, Chapter 4(3)(g) of the Practice Direction provides that, where a party shall raise an objection for any matter disclosed by the Prosecution it shall be made in terms of Section 6 of NRCD 323 at the Case Management Conference stage. I shall construe "any matter as disclosed"

to include Exhibits that shall be tendered at the trial by the Prosecution.

In actual practice in the trial of civil cases, all objections intended to be made are made at Case Management Conference stage. The essence is that if any document annexed to the witness statement was objected to and was upheld by the court that document is marked "Rejected" and cannot be used in the trial by either side or the court. The rule of practice applies with equal force in summary criminal trials and this court shall apply it in the instant case or trial."

(21) It is on the basis of this reasoning that the High Court admitted into evidence a document identified as NAD and which is challenged by the applicant in the instant application. The decision of the High Court can be summarized as follows;

i. The decision of the Supreme Court in Republic Vs. Baffoe-Bonnie

resulted in the Practice Direction made by the Chief Justice Practice Direction to guide the courts to undertake Case Management Conference in summary criminal matters.

ii. The Case Management Conference sanctioned by the Practice Direction made by the Chief Justice serves the same purpose as that provided for in civil cases in the High Court (Civil Procedure) Rules, 2004 (C.I. 47).

iii. Since the Practice Direction on Case Management in summary criminal trials serve the same purpose as that provided for in C.I. 47 which is to ensure or achieve speedy and effective justice and to avoid delays the principle applies mutates mutandis to summary criminal trials to achieve speedy and effective justice.

iv. Since chapter 4(3)(g) of the Practice Direction provides that objections to any matter disclosed by the Prosecution it shall be made in terms of Section 6 of NRCD 323 at the Case Management Conference stage, the Court takes the view that such objections should be taken at the same stage in relation exhibits intended to be tendered in evidence at the trial by the prosecution.

v. The position taken by the Court as stated in (iv) above is consistent with the practice in civil cases where all objections intended to be made are made at the Case Management Conference stage.

*vi. The effect is that if any document annexed to the witness statement was objected to and was upheld by the court that document is marked **"Rejected"** and cannot be used in the trial by either side or the court.*

vii. The rule of practice which obtains in civil proceedings relating to

documents attached to witness statements ***"applies with equal force in summary criminal trials".***

(22) This Court agrees with some of the observations made by the High Court regarding the use of witness statements for purposes of trials as it is true that the Chief Justice's Practice Direction was informed by the decision of the Court in the **Baffoe-Bonnie case**. In the introductory part of the Practice Direction at page 5 thereof, it is stated thus;

"Being informed by recent judgment of the Supreme Court in Republic Vs. Baffoe-Bonnie and 4 Others which dealt with the obligation of the Prosecution under article 19 of the Constitution to make disclosures to persons charged with Criminal Offences."

(23) It is also true that the purpose of these witness statements in civil and criminal proceedings, is to expedite trials both in civil and criminal cases but the Court is quick to add that the High Court's view that since the Practice Direction on Case Management in summary criminal trials serve the same purpose as that provided for in C.I. 47 which is to ensure or achieve speedy and effective justice and to avoid delays, the principle applies *mutatis mutandis* to

summary criminal trials to achieve speedy and effective justice must be taken with circumspection.

(24) The reason for which the Court cautions against the wholesale approval of the High Court's view that since the Practice Direction on Case Management in summary criminal trials serve the same purpose as that provided for in C.I. 47 which is to ensure or achieve speedy and effective justice and to avoid delays the principle applies *mutatis mutandis* to summary criminal trials to achieve speedy and effective justice must be taken with caution is that, the said statement must be appreciated in the light of the other statements in the **Baffoe-Bonnie case.**

(25) In the Baffoe-Bonnie case, this Court pointed out that the rules regulating criminal procedure were effectively modified by the applicable constitutional provisions on fair trials. This Court holds that the same principle applies in the case of filing witness statements in criminal proceedings as directed. The use of witness statements in criminal proceedings is regulated to the extent that they are applicable and regulated by the constitutional provisions on fair trial as held in the **Baffoe-Bonnie case.**

(26) The caution above explained notwithstanding, the Court also agrees with the High Court's view that the Practice Direction on Case Management in summary criminal trials serve the same purpose as

that provided for in C.I. 47 which is to ensure or achieve speedy and effective justice and to avoid delays, the principle applies *mutatis mutandis* to summary criminal trials to achieve speedy and effective justice must be taken with caution.

(27) The Court's agreement with the High Court's view on the use of witness statements in criminal trials as directed, has at this point, reached its exhaustive limit. In this regard, the Court notes first of all that the High Court itself concedes that witness statements filed in both civil and criminal proceedings are required to be used at the trial but not at any stage of the proceedings. The Court's admission of this point is clearly discerned from its own reference to the applicable principles on the use of witness statements.

(28) In both the civil procedure rules and the Practice Direction in civil proceedings therefore, this is clearly stated in the provisions of Order 32 rule 3B(1) of C.I. 47 as inserted by the High Court (Civil Procedure) (Amendment) Rules, 2014 (C.I. 87). The heading of the rule clearly confirms the Court's position on this. It is headed; ***"Requirement to serve witness statements for use at trial".*** The heading of the rule says without equivocation that the purpose for which a witness statement is required to be served is for use at the trial and at no other stage of the proceedings.

(29) In respect of criminal proceedings, the requirement to serve witness statements is stated in Part 3 of the Practice Direction, Disclosures and Case Management in Criminal Proceedings, 2018. Part 3(2)(a) of which is as follows:-

"2) (a) A witness statement may, subject to agreement by the parties, be tendered as the evidence in-chief of the witness at the trial and must be read out before the witness is cross-examined."

(30) This direction is also without any equivocation whatsoever. The witness statement is ***"tendered as the evidence in-chief of the witness at the trial"*** but at no other stage of the proceedings. To the extent that in both proceedings (civil and criminal) the witness statements are required to be used at the trial, it is incorrect to use Part 4(3)(g) of the Practice Direction the reach the conclusion that objections to any matter ***disclosed*** by the Prosecution shall be made, as directed in terms of section 6 of NRCD 323 at the Case Management Conference stage.

(31) The conclusion that by reason of Part 4(3)(g) of the Practice Direction which says that objections to any matter ***disclosed*** by the Prosecution shall be made in terms of section 6 of NRCD 323 at the Case Management Conference stage, objections relating to witness statements must also be taken the Case Management stage is erroneous for three main reasons. In the first place, witness statements on the one hand, and disclosures on the other hand are

regulated in two different parts of the Practice Direction. Witness statements are dealt with in Part 3 whereas Disclosures are dealt with in Part 4. They are therefore dealt with separately.

(32) Secondly, as Part 3(2)(a) of the Practice Direction clearly provides that the witness statement should be used at the trial, it cannot therefore be correct to say that objections relating to the same witness statement which is to be used at the trial should be prematurely dealt with at the Case Management Stage only because another Part of the Practice Direction (Part 4) which is unrelated to witness statements so provides.

(33) Thirdly, there is a clear internal inconsistency in the direction stated in Part 4(3)(g) of the Practice Direction that objections to any matter disclosed by the Prosecution shall be made, as directed in terms of section 6 of NRCD 323 at the Case Management Conference stage. This inconsistency lies in the fact that the direction flies in the face of the very section 6 of NCRD 323 which the direction clearly defers to. Section 6(1) of the NRCD 323 expressly regulates objections to evidence and it is clearly so headed. In its terms, it provides as follows:-

"6. Objections to evidence;

(1) In an action, and at every stage of the action, an objection to

the admissibility of evidence by a party affected by that evidence shall be made at the time the evidence is offered."

(34) The statutory provisions on objections to evidence says in very certain terms and with clarity that in ***"an action"****(regardless of whether it is a civil or criminal)****"and at every stage of the action [including case management] an objection to the admissibility of evidence by a party affected by that evidence shall be made at the time the evidence is offered".*** This without fear of contradiction whatsoever means that the only time when an objection can be taken to the admissibility of evidence is **at the time***(not before, or after, or in between)* **"*when the evidence is being offered".***

(35) The discussion so far exposes the fact that the High Court's decision that the practice in civil cases where all objections intended to be made are made at the case management conference stage with the effect that if any document annexed to the witness statement was objected to and was upheld by the court that document is marked ***"Rejected"*** and "***cannot be used in the trial"*** by either side or the court itself, flies in the face of the clear provisions of Section 6(1)

of the Evidence Act 1975 (NRCD 323). It is a palpable error committed by the High Court.

(36) The timing of such objections whether in civil or criminal proceedings must be at the time when the evidence is offered. This is confirmed by the Practice Direction and also the rules of civil procedure. The contrary practice adopted by the High Court in civil and criminal trials is at variance with the Practice Direction and the rules. Writing on the subject of Amendment of witness statements, the learned editors of the White Book, 1995 statedat paragraph 38/2A/9 as follows:-

"38/2A/9Amendment of witnesses' statements-The written statement of a witness served pursuant to the direction of the Court under paragraph (2) constitutes a "document" in the proceedings, and falls within the amending power of the Court under O. 20, r.8(1). The amending power is likely to be exercised only in exceptional circumstances. The time for the witness to alter or withdraw part of his statement may best be left to when he comes to be asked about it in the witness box. Equally, any argument that the statement of a witness contains any inadmissible evidence or other objectionable material should be left to be heard after the witness has produced it at the trial, as is the practice before

Official Referees, rather than dealt with by way of a prior application to compel the statement to be amended."

(37) Granted that the Practice Direction expressly directed otherwise and said that the objection be taken at the Case Management stage, that direction will clearly be per incuriam the provisions of Section 6(1) of the Evidence Act 1975 (NRCD 323) and cannot have effect. After all, a practice direction is simply a supplemental protocol to rules of civil and criminal procedure in the courts - a device to regulate minor procedural matters - and is an official announcement by the court laying down rules as to how it should function. See; ***"The English Legal System"*** by Catherine Elliott, Frances Quinn, Emily Allbon, Sanmeet Dua. Such directions cannot supplant the rules and certainly not substantive statutory provisions such as the Evidence Act. This Court therefore takes the view that the ruling by the High Court that such objections should be taken at the case management stage in relation to exhibits intended to be tendered in evidence at the trial by the prosecution is an error.

(38) **ERROR OF LAW APPARENT.**

The law is that it is not every error committed by the courts which is subject to the supervisory jurisdiction of the Court. In the case of **Mansah & Others Vs. Adutwumwaa & Others [2013-2014] 1 SCGLR 38** therefore, the Court restated the principles for the grant of the prerogative writs falling within the supervisory jurisdiction of

the Court by reference to the test laid down by Dr. Date- Bah JSC in the case of **Republic Vs. High Court, Accra; Ex-part Commission on Human rights and Administrative Justice (Addo Interested Party) [2003-2004] 1 SC GLR 312** where it is stated in holding (4) of the head-note to the case as follows:- ***"...certiorari would not lie to quash errors of law which were not patent on the face of the record and which had been made by a superior court judge who was properly seized of the matter before him or her. In that regard, an error of law made by the High Court or the Court of Appeal, would not to be regarded as taking the judgment outside the court's jurisdiction, unless the court had acted ultra vires the Constitution or an express statutory restriction validly imposed on it."***

(39) In the instant case, the High Court clearly rendered a ruling that is completely inconsistent with a statutory provision which provides without a shadow of doubt that objections to evidence should be taken at the time such evidence is offered but not at any other time. The statutory restriction placed on the High Court is that it has no jurisdiction to entertain and rule on objections taken at any stage before the trial.

(40) It must be pointed out that the error committed by the High Court was also committed in relation to the Practice Direction itself which

clearly says that such objections should be taken at the trial but not before. See paragraph 3 of the Direction. If the violation was of the Practice Direction alone, the Court would have classified it as a non-jurisdictional error. The error however relates to an express statutory provision which directs the stage at which such objections should be taken.

(41) In the case of **Republic Vs. Central Regional House of Chiefs & Others; Ex parte Gyan IX (Andoh X-Interested Party) [2013-2014] 2 SCGLR 845**, The Court heldthat judicial review lies to correct errors of law and that the remedy of certiorari is available to correct or quash:

i. jurisdictional error arising from want of jurisdiction.

ii. jurisdictional error arising from excess of jurisdiction.

iii. jurisdictional error patent on the face of the record.

iv. non-jurisdictional error latent, hidden or not patent on the face of the record; and

v. breach of the rules of natural justice.

(42) In the instant application, it is apparent from the record that the Learned Trial Judge committed an error on the face of the record as he lacked jurisdiction in the manner he proceeded which culminated in the directions and orders made in Exhibit KD2 particularly by admitting evidence during case management conference when the

witness who proferred the witness statement was not on oath. In consequence, the application succeeds and it is hereby granted. Let the ruling of the High Court (Commercial Division) dated 30th July 2020 be removed from the registry of the High Court to this court for the purposes of being quashed and the same is hereby accordingly quashed.

(43) Having so ordered, we are minded to repeat our position in **The Republic Vs. High Court (Commercial Division) Accra; Ex-parte Electoral Commission (Ndoum-Interested Party) [2015-2016] 2 SCGLR 1091**, where this Court held that it is trite law that the supervisory jurisdiction of the Supreme Court under Article 132 is not limited to the issuance of conventional prerogative writs but also the issuance of orders and such directions as will ensure prevalence of justice, equity and fairness. Consequently, pursuant to Section 5 of the Courts Act 1993 (Act 459), we direct that any objections that a witness statement contains any inadmissible evidence or other objectionable material during case management conference shall be heard and determined after the witness has produced the said witness statement at the trial in accordance with Section 6(1) of the Evidence Act 1975 (NRCD 323).

I. O. TANKO AMADU
(JUSTICE OF THE SUPREME COURT)

ANIN YEBOAH
(CHIEF JUSTICE)

S. K. MARFUL-SAU
(JUSTICE OF THE SUPREME COURT)

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

M. OWUSU (MRS.)
(JUSTICE OF THE SUPREME COURT)

COUNSEL

O. K. OSAFO-BUABENGWITH OSEI AKOTO APPIAHENE FOR THE APPLICANT.

MARINA APPIAH OPARE (CHIEF STATE ATTORNEY)WITH FRANCES MULLEN ANSAH (CHIEF STATE ATTORNEY)FOR THE 1ST INTERESTED PARTY.