IN THE SUPERIOR COURT OF JUDICATURE
IN THE SUPREME COURT OF GHANA
ACCRA, GHANA

CORAM: DATE-BAH JSC (PRESIDING)

WRIT
J1/4/2011

12TH JUNE,2012

1. **CHARLES MATE KOLE**
2. **NENE AZAGO KWESITSU 1** ... **PLAINTIFFS/ RESPONDENTS**

VERSUS

1. **THE ELECTORAL COMMISSION**
2. **THE ATTORNEY-GENERAL** ... **DEFENDANTS/ RESPONDENTS**

1. **NENE TEYE TITRIKU I**
2. **AKUSE AMEDEKA CITIZENS ASSOCIATION** ... **CO- DEFENDANTS/ APPLICANTS**

R U L I N G

DR. DATE-BAH JSC:

I have carefully considered the co-defendant's motion for leave to file a counter-claim in this case together with his supporting affidavit and statement of case. I have also taken into account the affidavit in opposition filed by Nene Azako Kwesitsu, the Second Plaintiff herein, and the oral arguments submitted on behalf of both the plaintiffs, the co-defendant and the first defendant. Relying on these submissions, I have come to the conclusion that the application for leave to file a counter-claim has come too late to succeed.

The substantive case has already been adjourned for judgment and the co-defendant has made no effort to arrest the judgment which is due to be read tomorrow. Furthermore, the nature of the counter-claim that the co-defendant intends to file does not at first sight appear to raise a matter within the exclusive original jurisdiction of this Court.

In paragraph 11 of Nene Titriku I's affidavit in support of the motion for leave, he deposes as follows:

"In the circumstances, beyond LI 1983, whether it is good or bad law, we want leave to file a Counter Claim praying this Court for a declaration that upon a true and proper interpretation of PNDC Law 26 as amended by PNDC Law 28, Akuse which means the six Electoral Areas as delineated in LI 1983 ought to be part and parcel of Dangbe West District and that the LI which put Akuse under the Manya Krobo District Assembly was bad law."

This deposition does not, with respect, reveal a valid ground for the exercise of this Court's original jurisdiction, since the need for statutory, in contradistinction from constitutional, interpretation does not trigger this court's original jurisdiction and is thus a further reason for not entertaining this application for leave to file a counter-claim at this late stage in this case.

The application for leave is accordingly dismissed. This dismissal is, of course, without prejudice to the merits of the substance of the counter-claim the co-

defendant wishes to bring. He is free now to consider the appropriate forum for seeking redress on the substance of his claim.

DR. S. K. DATE-BAH

JUSTICE OF THE SUPREME COURT

COUNSEL;

MR. NKRABEAH EFFAH-DARTEY WITH HIM K. T. K. AGBAN FOR THE CO-DEFENDANTS/APPLICANTS.

GODFREY YEBOAH DAME FOR THE PLAINTIFFS/RESPONDENTS.

JAMES QUASHIE-IDUN WITH HIM ANTHONY DABI FOR THE 1ST DEFENDANT/RESPONDENT.