IN THE SUPERIOR COURT OF JUDICATURE
IN THE SUPREME COURT OF GHANA
ACCRA, 2012

CORAM: DR. DATE-BAH JSC (PRESIDING)
ANSAH, JSC
DOTSE, JSC
BONNIE, JSC
BAMFO,(MRS) JSC

CIVIL MOTION.
No. J5/8/2012

25TH APRIL,2012

THE REPUBLIC

VRS

HIGH COURT,ACCRA
EX-PARTE;GHANA MEDICAL ASSOCIATION ..... APPLICANT

CHRIS ARCMANN-AKUMMEY ..... INTERESTED PARTY

RULING

ANSAH JSC.

This is an application by the Ghana Medical Association for judicial review of the decision of the High Court, Accra, presided over by His Lordship Mr. Justice Dzakpasu, to prevent him from proceeding with the ruling on the interlocutory injunction and the substantive matter pending before it intituled: 'Chris Archman-Akumey v Ghana Medical Association & others'. In other words, the application is seeking an order to prohibit the aforementioned judge from ruling on an application for an order of interim injunction and hearing the substantive matter in the suit before him.

The affidavit stating the facts and background of the application:

The facts grounding the application are contained in the supporting affidavit filed on 8-12-2011. In it, the applicant deposed that on 24 October 2011, the plaintiff, respondent herein, issued a writ of summons and statement of claim against the Ghana Medical Association (hereinafter called the applicant), for certain reliefs and followed it with an application for interlocutory injunction restraining the applicant from embarking on a strike of any kind. On 1st November 2011, the judge stated in court he would like to determine the matter on its merits.

Subsequently, the chronology of events was that on 8th November, 2011, the applicants filed an affidavit in opposition to the application for interim injunction rather belatedly, whereupon the plaintiff respondent filed a supplementary affidavit in response thereto. Then the applicant filed a statement of defence in which it raised a preliminary objection to the application for injunction and also challenged the capacity of the plaintiff respondent to invoke the jurisdiction of the High Court in the matter.

The court heard both counsel for the parties argue for and in opposition to the legal objection thus raised. After arguments from counsel the judge was alleged to have stated that 'if he ruled in the plaintiff/respondent's favor in the preliminary matter, he would go ahead immediately and rule on the interlocutory injunction

application.' He then adjourned proceedings to 9th December 2011 for his ruling.
The applicant deposed further in his affidavit, he construed the plaintiff's substantive claim before the court to be that it was to enforce an alleged breach of human rights; he recited the procedure for invoking the jurisdiction of the High Court under the Human rights provisions in the constitution, 1992, in the affidavit in support of application for the injunction. The applicant took the view that by issuing a writ of summons supported with a statement of claim purporting to invoke such jurisdiction, the plaintiff respondent invoked the jurisdiction of the High Court wrongly. The Judge compounded the error by entertaining it. What he did was not only wrong, but was also contrary to law.
Furthermore, when the judge said he would rule on the interlocutory injunction when the capacity of the plaintiff had not been investigated and established, he evinced an inclination of bias.
The deposition in the ultimate paragraph 21 of the affidavit encapsulated the crux of the affidavit in support and therefore bears quotation *in extenso*. It was that:
"21. That the applicants pray that in the interest of justice, smooth, orderly and proper administration of justice, that this Honorable Court prohibits the learned High Court Judge, Mr. Justice Dzakpasu from continuing hearing the matter for the fact that the High Court's jurisdiction has not been properly invoked by the Respondent and further that by making such statements in open court, the learned judge has exhibited an open bias against the applicants."

Grounds on which relief is sought:
Aggrieved by the above mentioned events, the applicant issued the writ to invoke the supervisory jurisdiction of this court and stated the grounds for the application to be as follow:
"(a). Since the High Court's jurisdiction in Human Right matter can be properly be invoked by an application in the form of a Motion supported by an affidavit copies of which ought to be served on the Attorney General, stating the full name and address of the applicant, the facts upon which he relies, the relief and remedy sought and the grounds for seeking the remedy and since the Respondent in this application purported to enforce an alleged breach of human rights

by a writ, the High Court's jurisdiction has not been legally and procedurally been (sic) invoked to enable the learned High Court judge hear and rule on the interlocutory and substantive Claim.
(b). Since Labor disputes occur between the employer and the employee and since in matters relating to Labor disputes affecting the Essential Services the law mandates the National Labor Commission to deal with the dispute with power to invoke the jurisdiction of the High Court to compel a party to a Labor dispute to comply with its direction or order, the Respondent in this case not being the National Labor Commission, or acting under the Commission's authority, could not legally invoke the jurisdiction of the High Court to deal with the labor dispute involving the applicant and its employers and by issuing a writ to that effect at the High Court has wrongly invoked the Courts jurisdiction.
(c). The Learned Judge's statements on 1st of November 2011 that he would want to deal with the matter on its merits and on 15th November 2011, immediately after the arguments for the preliminary objection had been heard that he would rule on the interlocutory injunction if he concluded that the Respondent had capacity, evince an inclination of bias and therefore disqualified him from continuing to hear this case."

Statement of case by the applicants:

After stating the background facts and grounds for the application, the applicant submitted in his statement of case filed in support of his case, that the judge had predetermined the substantive matter and so the applicant would not receive a fair hearing at the trial or come out with an unbiased decision at the end if he was allowed to continue with the matter; the submissions on this point, as per the statement of case filed on behalf of the applicant, was that:
"16. The applicants contend that the pronouncements by the learned judge only evince an indication that the matter has been predetermined and would not receive a fair, unbiased decision during the trial if the learned trial judge is allowed to continue with the matter."

Defendant's/Interested party's affidavit in opposition to the application:

As was to be expected, the interested party opposed the application. The grounds therefore are summarized in several paragraphs of the affidavit in opposition and I most respectfully quote only some of the salient ones verbatim. They are:

"2 That this application is premature since the trial court has not given any ruling on my application for injunction, or on the preliminary objection raised by the applicants.
6 That since the ruling has not been given, there is no way the Applicant can show the ruling was in my favor or what the decision would be.
8. That this application is therefore brought *mala fides* and is an attempt to avoid a ruling in an application sponsored by Applicants themselves.
9 That ground (a) of the present motion is untenable since Applicants seek to determine how the interested party must present his case and in any case is misconceived because even if the Plaintiff/respondent /interested party's case was purely a human rights matter, the proper initiation was by a writ and Statement of claim.
10 That order 2 rule 2 of the High Court (Civil Procedure) Rules, 2004, CI 47, requires all Civil Proceedings shall be commenced by Writ of Summons, which is what Respondent did.
17 That my Writ in the High Court does not seek to determine the labor dispute between the Fair Wages and Salaries Commission and Applicants as to the proper level the Applicants must be placed on the Single Spine Salary Structure to warrant Applicants demand that only the Labor Commission can initiate an action based on the Labor Act, Act 651.
18. That the position of applicants is not even supported by law or practice since this Honorable Court has dealt with action instituted by parties who are not the National Labor Commission, and since the Labor Court, Past Trade Division has severally dealt with actions not instituted by the National Labor Commission but by other individuals and companies.

20. That again I have not sought to "…… deal with the Labor dispute ….", but to rely on an event which is clearly against statute which has no bearing on the Labor dispute but which is tangential to the Labor dispute since going on strike is not an ingredient of the dispute, which is about Pay or Salary levels, but rather is an external tool wrongly employed as a coercive adjunct to the real issues in controversy between Applicants, (and) the Fair Wages Commission.
21. That therefore paragraphs 13 and 14 of the Affidavit in Support are erroneous to the extent that the proper person to enforce the provision of the Labor Act 2003, (Act 651), is only and solely the National Labor Commission or that the National Labor Commission (the NLC) has made any orders or directives before or at the time of instituting the action in the Court *a quo.*
22 That NOWHERE in Act 651 has EXCLUSIVITY been given the NLC regarding actions based on Act 651 to argue to the contrary presumes that this Honorable court was wrong in deciding several appeals brought by individuals and organizations other than the NLC concerning the provisions of Act 651.
25 That paragraphs 18 and 19 of the supporting affidavit seek to determine how I should initiate my action and that declarations cannot be procured by Motion and that even though I have cited some Article 12 and 21 right, other clauses in the 1992 constitution have been cited, as well as statute so I elected not to sue under Article 33 simpliciter, and Order 67 of the High Court (Civil Procedure) Rules 2004, CI 47, but order 2 of CI 47.
26 That paragraph 20 is misconceived as the grounds for imputing bias on the part of the Trial Court are untenable because a statement that a decision on the preliminary objection will precede a decision on the motion for injunction in tandem is the common sense, speedy and appropriate manner to dispose of the applications before the trial court.
29 That applicant's paragraph 21 of the supporting affidavit is utterly untenable because bias is a wall (sic) area of law replete with precedents and authorities on its ingredients and constituents and I humbly believe the present grounds based on the award of costs and a single statement as to how the Court would deliver its yet undelivered rulings do not qualify as sufficient to ground this application.

31. That paragraph 14 of the applicant's statement of case and ground *'c'* of the present motion are incorrect as the trial judge never said he would rule on the matter if he concluded the plaintiff had capacity which statement is even logical but said he would rule on the injunction after he had given his ruling on the objection."

In the concluding paragraphs of his affidavit in opposition, the respondent deposed that the authorities cited by the applicant did not support his case, the application was misconceived, untenable, misdirected and geared only towards having the case transferred from the judge by employing the wrong method. Finally, he prayed that the application be dismissed.

In view of the opposition mounted by the respondent to the application summarized above, I will consider the law on the issues raised by the submissions in the respective statement of cases by the parties herein and test each ground proferred for the application with it. Towards this end I need remind myself that this court ought to stand by its earlier statement in *Republic v Court of Appeal; ex parte Tsatsu Tsikata [2005-2006] SCGLR 612* that:
"The clear thinking of this court is that, our supervisory jurisdiction under article 132 of the 1992 constitution, should be exercised only in those manifestly plain and obvious cases, where there are patent errors of law on the face of the record, which errors either go to jurisdiction or are so plain as to make the impugned decision a complete nullity. 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 (as she then was, at page 619 of the report).
Where an applicant invokes the supervisory jurisdiction of this court for the judicial review of a decision of the High Court to proceed with a ruling on a motion and the substantive matter pending before it, he seeks to prevent the judge from further hearing the suit: that is to say, he seeks a prohibiting order or an order to a lower court not to

carry out an *'ultra vires'* act by which is meant hearing a case outside its jurisdiction; in other words, an order of prohibition issues to prevent a court or tribunal from exceeding or continuing to exceed its jurisdiction or infringing the rules of natural justice. Thus, the grounds upon which this court proceeds to grant application of this nature, following the authorities are:

1. want or excesses 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 principle.

It goes without saying that the instant application was grounded on the first two of the above grounds, namely, 'want of or excesses of jurisdiction' and secondly, 'error of law on the face of the record'; these may be examined in detail below to see how far the applicant succeeded in this application.

There is a plethora of authorities specifying the scope and grounds upon which the discretionary order of prohibition would be granted by our courts. Amongst them are *Republic v High Court, Accra; Ex parte Commission on Human Rights and Administrative Justice (Addo Interested Party) [2003-2004] SCGLR 312;* In *ex parte CHRAJ* (supra), this court speaking through the legal luminary, Dr. Date-Bah JSC, re-stated the law governing the exercise of judicial review as appeared in holdings 4 and 5 at pages 316-317 of the report which I respectfully reproduce hereunder, that:

"….Where the High Court (or for that matter the Court of Appeal) has made a non-jurisdictional error of law, which was not patent on the face of the record, (and by the 'record' was meant the document which initiated the proceedings, if any, and the adjudication but not the evidence nor the reasons unless the tribunal chose to incorporate them), the avenue for open to an aggrieved party was an appeal, not judicial review. Therefore certiorari (or prohibition) 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 seised 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 be regarded as taking the judge outside the courts jurisdiction, unless, the court had acted *ultra vires* the Constitution or an express statutory restriction validly imposed on it. *Anisminic Ltd v Foreign*

Compensation Commission [1969] AC 147 at 171; not followed; Dictum of Sowah JA, (as he then was) in *Republic v Accra Special Circuit Court; Ex parte Akosah [1978] 2 GLR 212 at 215, CA* approved…..

5 Prohibition would lie to prevent a court from exercising its jurisdiction or reaching a decision which could be quashed subsequently by certiorari…"

In *Republic v High Court, Accra; Ex parte Industrialization Fund for Developing Countries and another [2003-2004] SCGLR 348,* this court held that certiorari (or prohibition) was a discretionary remedy which would issue to correct a clear error of law on the face of the ruling of the court. In the case of an error not apparent on the face of the record, the avenue for redress is by way of an appeal.
Bamford-Addo JSC held in that case that when the High Court, a Superior Court, is acting within its jurisdiction, its erroneous decision is normally corrected on appeal whether the error is one of fact or law. She noted the distinction between certiorari (prohibition included) and appeal, which was often lost on litigants and their counsel and further that certiorari is a discretionary remedy which would issue to correct a clear error of law on the face of the ruling of the court; or an error which amounts to a lack of jurisdiction in the court so as to make its decision a nullity.

> As is well known, the difference between certiorari and prohibition is only that whereas certiorari looks to remedy past errors, prohibition looks to the future to prevent what will be done from being done. What goes on for the former equally applies to the latter. The authorities make it also clear that it is not just any error that has the effect of ousting a court of jurisdiction, but that for an error to have any such effect it ought to be basic and fundamental.

In Re Appenteng (Decd); Republic v High Court, Accra; Ex parte Appenteng and another [2005-2006] SCGLR 18, was a case where two of the three executors named in a will applied for an order of prohibition against the continued exercise of jurisdiction by a High

Court judge, Accra, in respect of an aspect of the administration of the estate of the deceased testator; this court held that the rules on the scope of the order of prohibition are that:

(a) prohibition is not meant to prevent a person or a court from exercising general judicial functions; (b) it is rather to challenge an attempted exercise of the judicial function in specific jurisdictional situations, ie, for excess or absence of jurisdiction or departure from the rules of natural justice such as the existence of actual bias or strong likelihood of bias or interest; and (c) an applicant for prohibition or certiorari is not restricted by notion of locus standi, ie he does not have to show that some legal right of his is at stake……"

In ex parte Appenteng (supra), the late Prof Ocran JSC upheld the rules on prohibition and applied them to the facts of the case, in particular that the High Court has jurisdiction under the Public Trustees Ordinance, 1952, to appoint the Public Trustee to manage the estate or trust. Also, the basic jurisdiction to remove executors and appoint a public trustee under the 1952 Ordinance lay in a High Court, so there had been no usurpation of jurisdiction that would cause the court to issue a prohibition against the suit before the judge or court. The application for prohibition therefore failed.

Bias, actual or a real likelihood thereof, is a good ground for the grant of prohibition against a judge. In this case, the interested party denied the imputation of bias because what the trial judge did was in consonance with the common-sensical, speedy and appropriate manner to dispose of the application before the court and that at any rate, the court did not say what the applicant alleged he did.

Where is the evidence on what the court said in this case?

That was oral and was not contained in a written decision, ruling or order. However, the law is settled that an oral decision is amenable to judicial review, provided there was an error of principle in it: see *Republic v Akim Abuakwa Traditional Council; ex parte Sakyiraa II [1977] 2 GLR 115 at 126-127*.

The basic issue in this case is whether or not the applicant is entitled to the order sought from this court? The subsidiary issue upon whose success or otherwise this issue depends is: was there proof of bias

alleged against the learned judge; did the court lack or exceed its jurisdiction to hear the matter?

In *Republic v High Court, Kumasi; ex parte Mobil Oil, (Ghana) Ltd, (Hagan interested party), [2005-06] SCGLR 312,* the conditions for the grant of prohibition on grounds of real likelihood of bias was considered in great detail by this court.

The condensed facts of that case were that in the course of hearing the suit before him, the judge ignored a breach of agreement between the parties and ordered the applicant to continue to supply products to the Pine Avenue Service Station. He was further alleged to have showed a clear inclination to support the interested party to the application, and also to have pre-determined the declaration which the plaintiff to the action had sought on his writ of summons for an order of interim injunction. This court said that even though the comments might seem to have been obiter, they were rash and amounted to breaches of the rules of natural justice. Under those circumstances, this court was of the view that it would be impossible for the judge to bring a completely impartial mind to bear upon the trial of the substantive matter. This court clinched the deal when it said:

"The authorities are clear. The common law disqualifies a judge, magistrate or an independent administrator from adjudicating whenever circumstances point to a real likelihood of bias, by which is meant 'an operative prejudice whether conscious or unconscious' in relation to a party or an issue before him. This applies in particular, where the circumstances point to a situation where a decision may be affected by pre-conceived views";

see the opinion by Dr Twum JSC at page 327 of the report.

In *Attorney –General v Sallah 2 G and G, 487,* the Court of Appeal then sitting as the Supreme Court, said at page 488 of the report that:

"What then is the law on disqualification on the ground of bias? We think that bias in a judge disqualifies him from adjudicating upon a case. And in this regard the law recognizes not only actual bias as a disqualifying factor but a likelihood of bias as well. The objection in this case is not based on actual bias and indeed the learned

Attorney-General was at pains to point out that nobody has said that the judges involved were in fact biased. His case is that from the facts before the court, it ought to hold that there is a likelihood of bias. In determining the question of bias, the courts have held that pecuniary or proprietary interest, however small in the subject matter of the dispute, disqualifies a judge."
We do not have any such allegation in this case. The quotation continues at page 489 that:
"Interest, other than interest of a direct pecuniary or proprietary nature which gives rise to a real likelihood of bias, will disqualify a judge."
Much earlier, the Court of Appeal had held in *Amponsah v Minister of Defence [1960] GLR 140 at 141,* where *Korsah CJ said that:*
"To justify an allegation of interest or bias against a judicial officer, it must be established that he in fact has some interest in the subject-matter, or has such foreknowledge of the facts as to make it impossible for him to adjudicate upon the matter with an independent mind and without any inclination or bias toward one side or other in the dispute."
It becomes reasonable to hold then that, apart from direct pecuniary or proprietary interest where bias will be presumed to disqualify a judge, a likelihood of bias is enough to have the same effect. Where a judge makes prejudicial statements in the course of hearing a case, he opens himself to allegations of a real likelihood of bias, which will disqualify him from continuing sitting on the particular case. The reason is that if by his prejudicial statements he had predetermined all issues at stake, what is left for him to decide for which reason he should continue the hearing?
The categories of grounds for making such allegations are neither closed nor exhausted. Each case will depend upon its own peculiar facts.

In his statement of case filed in support of the application, the applicant submitted that the judge showed by his pronouncements that the matter had been predetermined and so the applicant would not receive a fair hearing during the trial or come out with an unbiased decision at the end if he was allowed to continue with the

matter; the submissions on this point were predicated on the submissions in the statement of case that:
"16. The applicants contend that the pronouncements by the learned judge only evince an indication that the matter has been predetermined and would not receive a fair unbiased decision during the trial if the learned trial judge is allowed to continue with the matter."

The applicant left no doubt that this was the basis of his application to invoke the supervisory jurisdiction of this court specifically to prohibit the judge from proceeding further in the case. It was upon this basis that the applicant invites this court to say the High Court in this case lacked jurisdiction to hear the matter before it so he ought to be prohibited from continuing to sit on it.

The applicant herein expatiated more on this when he deposed further in paragraph 17 of his supporting affidavit, filed on 8-12-2011, that:
"17. That His Lordship Dzakpasu adjourned the matter to 9th December 2011 for ruling but before the adjournment also stated in open court that if he ruled in the Plaintiff/Respondent's favor in the preliminary matter, he would go ahead immediately and rule on the interlocutory Injunction Application."
That same day when the applicant filed his statement of case, he added more to this when he submitted in writing that:
"14 After the legal arguments in support of the legality to invoke the jurisdiction of the High Court and the fact that the matter had become moot, the learned judge stated in open court that he would rule on the injunction application immediately *if,* he concluded that the Plaintiff had capacity and hence the court had jurisdiction to hear the matter."
The interested party wholly disagrees with this submission; he deposed that the judge never said he would go ahead immediately and rule on the interlocutory injunction, but rather that he would rule on the injunction after he had given his ruling on the preliminary objection. To the interested party that was the right and normal thing to do since the motion for injunction could not be left hanging.

One thing that stands out clearly from the respective submissions on this point was that the judge did not make any positive statement that he had ruled in favor of or against the preliminary objection. He did not say whether the plaintiff/interested party had the capacity to mount the action or not. He was non-committal and only expressed what he would do - in the event of a certain situation. Implied in what he was alleged to have said was that if the judge did not rule in favor of the preliminary objection, then, he would have no need to continue with the hearing as in that eventuality, the plaintiff did not have capacity to mount the action; he would still have to rule on the interlocutory injunction application for the interlocutory injunction. What then was he alleged to have said or decided? Nothing express or positive; at its highest the judge only expressed what he would do *if* a condition was fulfilled; that was a far cry from what the trial judge in the *Ex Parte Mobil Oil Ghana Limited (supra)* did. Perhaps the applicant should have waited for the judge to commit himself – to see if he would say anything that could be used against him. The applicant did not – or waited in vain. What he had from the judge was not enough to provide the fulcrum from which to launch an attack for bias against the judge; in effect then the applicant failed in my opinion to make a case of a real likelihood of bias against the judge for which he should be prohibited from continuing sitting on the case because he thereby vitiated or lost the jurisdiction he initially had to hear and determine the matter before him.
It was appropriate for judges or arbitrators to be taken on for words they utter expressly in court or in their decisions, more than impressions taken of what they did say.
It must be stated plainly that it is not unusual for a court to state a chronological order of what it would do at a point to be followed by another in the course of proceedings; if that was done it might well be a case management style more than predetermining issues in the proceedings.
The imputation or inference of a likelihood of bias in the circumstances did not avail the applicant; there was no proof of a real likelihood of bias made against the trial judge in this case;
In the result, ground ***'c'*** of the grounds for the reliefs sought fails and is dismissed.

What about ground ***'a'*** quoted above? The substance of that ground was to fault the plaintiff/respondent on his choice of the form to commence proceedings in this matter. The applicant submitted that in so far as the plaintiff's action was in fact and in truth a human rights action, he should have commenced the proceedings by a motion and not a writ of summons and a statement of claim as he did. By resorting to the writ of summons procedure in this matter, the plaintiff erred egregiously; the High Court compounded the error by entertaining the action.

Order 2 rule 2 of the High Court Civil Procedure Rules 2004 CI 47 states that:

"subject to any existing enactment to the contrary, all Civil Proceedings shall be commenced by the filling of a writ of summons."

Counsel for the respondent submitted to the contrary that Order 67 of CI 47 prescribed the procedure under Article 33 of the Constitution, 1992, when it provided that:

"**1. Application for redress under article 33 of the Constitution**

A person who seeks redress in respect of the enforcement of any fundamental Human Rights in relation to the person under Art. 33(1) of the Constitution, shall submit an application to the High Court.

2 Mode of submission of application

(1) The application shall be made to the court by motion supported by an affidavit signed by the applicant's lawyer and shall contain the following particulars:

(a) the full name and address for service of the applicant and the lawyer of the applicant;

(b) the facts upon which the applicant relies;

(c) the relief or remedy sought by the applicant and the grounds on which the applicant seeks the relief or remedy; and

(d) the full name and address for service of any person directly affected by the application.

(2) A copy of the application shall be served on the Attorney-General and such other persons as the Court may direct."

The above rules in CI 47 state categorically that the enforcement of the fundamental human rights under Article 33 of the constitution is by way of a motion supported by an affidavit whose contents are also provided for under the rules. The order does not mention a writ at all

in connection herewith, and therefore according to the submissions, the applicant may appear to have misconceived the point when he submitted that the plaintiff/respondent should have commenced proceedings in the High Court by a writ of summons as provided for under Order 2 rule (2) of CI 47.

I do not think it will serve any good purpose for me to decide which submission was right or wrong, i.e whether or not the writ procedure was more correct to commence the proceedings in question. The important consideration is assuming the judge erred in not condemning the procedure adopted in commencing the proceedings, what was the effect of such error of law. The fact was that the High Court had jurisdiction to hear and determine the matter before it, to wit, the labor dispute between an employer and his employees. If he erred in hearing any aspect of this matter, that did not erode or eat away its jurisdiction or let him exceed it.
At any rate, Order 81 of CI 47 A stated that failure to comply with the requirements of these rules in a manner as to form, manner, place or time shall be treated as an irregularity and shall not nullify the proceedings. Of and concerning Order 81 of CI 47, Dr. Twum JSC held in *Boakye v Tutuyehene [2007-2008] SCGLR 970 that*
"The new Order 81 has made it clear that perhaps apart from lack of jurisdiction in its true and strict sense, any other wrong step taken in any legal suit should not have the effect of nullifying the judgment or the proceedings."
see also Republic v High Court, Accra; ex parte Allgate Co, Ltd (Amalgamated Bank Ltd, interested party) [2007-2008] SCGLR 1041; Republic v High Court, Koforidua, ex parte Ansah-Otu. & another Koans Building Solutions Ltd,(interested party) [2009] SCGLR 141 and the recent cases named therein.

Equally, if under the labor law of the land it is only the NLC that has the mandate to settle labor disputes but the plaintiff did not but nevertheless went to court, it ought to bear in mind that the court undoubtedly has jurisdiction to hear labor disputes under its general jurisdiction in article 140 of the constitution to hear all matters, civil or criminal, labor disputes not excepted, under the constitution or the labor law of the land. Whatever error it might have committed in the

course of proceedings, fell well within its jurisdiction and did not bereave or rob it of it.
Accordingly, grounds **'a'** and '**b'** of the relief in the application did not avail the applicant and are dismissed.

I have said enough to show that I do not believe the applicant proved the existence of any real likelihood of bias to disqualify the judge from continuing hearing the matter.
It becomes clear that the application did not succeed on any of the grounds upon which it was predicated. It is dismissed.
The trial judge is motioned to proceed to deliver any outstanding matter and to continue the hearing of the matter before him.

(**SGD) J. ANSAH**
JUSTICE OF THE SUPREME COURT

(SGD) DR. DATE-BAH
JUSTICE OF THE SUPREME COURT

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

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

(SGD) V. AKOTO BAMFO (MRS)
JUSTICE OF THE SUPREME COURT

COUNSEL.

NENE AMEGATCHER (WITH HIM DOMINIC BRENYA-OTCHERE) FOR THE APPLICANT.
DAVID ANNAN FOR THE INTERESTED PARTY.