



From the desk of
Chief Justice of the Republic of Ghana

Note

To Justice Dofse

My brother,

I want you to, as usual, read and dispatch ~~the~~ petition which is certainly coming from a lawyer but is hiding behind the plaintiff's appellant.

I hope we can put our heads together and decide the way forward.

J

24/09/2020

Signature:.....

Date:.....



6th September, 2020

**THE CHIEF JUSTICE
SUPREME COURT OF GHANA
ACCRA**

His Lordship the Chief Justice,

**RE: OGYEEDOM OBRANU KWESI ATTA VI
VRS
GHANA TELECOMMUNICATION COMPANY LTD
(VODAFONE) AND
LANDS COMMISSION CAPE COAST**

CIVIL MOTION NO.: H1/39/19

PETITION

His Lordship, the Chief Justice, I present this petition as the sitting Chief of Gomoa Afransi in the Central Region of Ghana and on behalf of the Twidan Royal Family on whose behalf I commenced the above-named suit at the High Court, Agona Swedru. myjoyonline.com

The elders of the Traditional Royal Family and myself have noted with disquiet certain occurrences and developments in respect of the matter since aspects of the case first came before the Supreme Court. These have raised very serious doubts in our minds whether my family will receive justice before the apex court of the land.

Of concern to us are comments and pronouncements made by some members of the panel who variously have sat on the matter. Our former Lawyer did well to calm us down and impressed upon us not to read so much into things said when the court is sitting. However, the most recent events since 6th February, 2020 and particularly those of Thursday, July 30, 2020 have made it necessary for us to present this petition.

We recall that the first time an aspect of this case came before the court was on 8th May, 2018 in an application for certiorari, where the 1st Defendant (Appellant) sought to get our family to return monies paid to our family on the orders of the Court of Appeal, Cape Coast. Your Lordship, who was not Chief Justice then, was part of the panel. We recollect vividly that your

Lordship's first comment was which **"village land could sell for as much as that sum of money"**.

This comment has stayed with us for its prejudicial nature in that we wondered how such a comment could be made at a time the court did not have all the facts before it.

After Vodafone lost at the Appeal Court and filed for a stay of execution, we became worried when on two occasions the ruling was adjourned for no clear reason, though we were advised it was within the court's domain and was not unusual. We took the advice in good faith. Events that followed, however, left us dumbfounded. A day before the third date (i.e. 6th February, 2020) that we were to appear for the ruling our team had information that the Stay of Execution would be re-argued and that was because the lawyer of the other side Mr. Ace A. Ankomah, had made the assertion in a different court. Our lawyers sought to let us not give any credence to the information, but low and behold on that day (i.e. 6th February, 2020) when we came before the court, presided over by your lordship, we were told of an expanded panel and our lawyers were asked to file further submissions. This seemed to confirm the earlier information about rearguing the case. On our part, as a party in the matter, we had no prior knowledge of this. In addition, we noticed that the original panel of five (5), had been increased ~~to~~ ^{revised online from} seven (7). For a simple application for interlocutory injunction, this seemed to us rather very strange and naturally heightened our fears. Indeed, comments made in open court to our lay mind suggested that without the expanded panel to relook at the case the Stay of Execution sought by Vodafone would have failed.

This, your Lordship, might still appear as though the court was simply going about its normal business, but a comment made by Justice Dotse in another case at a time that the merits of this appeal is yet to be determined certainly suggests that the prejudice is deep-seated. In a case involving the Board of Governors, Achimota School and Nii Ako Nortei II, Platinum Equities Limited and the Lands Commission given on 20th May, 2020 Justice Dotse said at page 63 as follows:

"We have found the suppression of vital evidence of the 3rd Defendants herein not only in this case but also in an unreported case, Suit No.: CM/131/2019 dated 28th April, 2020, entitled Ogyedom Obranu Kwesi Atta VI vrs Ghana Telecommunication Company Ltd vrs Anor, where we had to deal with issues of suppression of vital and material evidence by officials of the 3rd

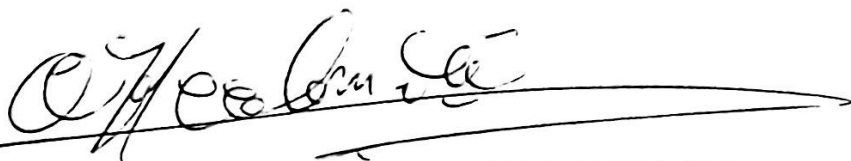
Defendant which if available would have put the evidence before the court for adjudication.”

Your Lordship, this assertion of Justice Dotse clearly meant that even before the substantive matter is heard, a decision had already been reached in favour of the Appellant that there had been suppression of evidence. We are, with all humility, at a loss how such a categorical statement could have been made when the highest court of our land was yet to determine precisely that matter. The situation definitely tells us that we will not receive a fair appeal. As we have come to know, doing justice to the parties without fear or favour is a fundamental principle of our courts and that is why we have the legal saying that justice should not only be done but should be seen to be manifestly done.

Your Lordship there was also the event of Tuesday, 24th July, 2020, where your Lordship presided and compelled our stand-in counsel, Mr. Kwesi Afrifa, to respond there and then to a late supplementary affidavit that he was seeing in court for the first time despite his protests. In addition, on 30th July, 2020, the last but one day of the legal year, you insisted on proceeding with the matter and proceeded, even when we had informed the court that our lawyer had taken a decision that he could no longer continue as our counsel and we prayed for time to find a new lawyer. We therefore fear that we will not receive a fair trial, where you preside over the panel or Justice Dotse is part of the panel. myjoyonline.com

It is in this regard that we humbly petition that both Justice Dotse and Our Lord the Chief Justice remove yourselves from hearing the matter to give us the assurance that fairness and Justice is seen to be done.

Yours respectfully,



OGYEEDOM OBRANU KWESI ATTA VI

For: Twidan Royal Family of Gomoa Afransi

MEMORANDUM

To: His Lordship the Chief Justice
From: Justice Victor J. M. Dotse
Date: 1st October 2020
Subject: **Petition by Ogyeedom Obranu Kwesi Atta VI, against His Lordship The Chief Justice and Justice Victor Jones M. Dotse to recuse themselves from hearing Suit No. H1/39/19 Ogyeedom Obranu Kwesi Atta VI vrs Ghana Telecommunication Co. Ltd (Vodafone) and Anr.**

I respectfully refer to your note dated 24th September 2020 reference a petition dated 6th September, 2020 authored by Ogyeedom Obranu Kwesi Atta VI, acting for and on behalf of the Twidan Royal Family of Gomoa Afransi which has been referred to me for my comments, which I respectfully do as follows:-

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1. Generally speaking, the petition lacks substance and has been written in very bad taste with the sole intention of picking and choosing their own panel of Judges.
2. Secondly, the enlargement of the panel from five (5) to seven (7) was requested by the original panel of five. This was premised upon the realisation that the points of substance raised for determination in the case before the original panel might require a departure from previous binding decisions of the Supreme Court, pursuant to *Article 129 (3) of the Constitution 1992*. The original panel therefore decided that, in order to consider the issues raised in the case more authoritatively the Hon. Chief Justice was respectfully requested to enhance the panel to seven (7).

This is an administrative decision of the Chief Justice pursuant to *Article 125 (4) of the Constitution* and the petitioner should be properly advised by those who are behind this petition to appreciate the authority of the Chief Justice.

3. Thirdly, I do not recall His Lordship the Chief Justice, making the comments ascribed to him before he became Chief Justice on 5th May 20218 as is being alleged. In any case, such a comment is entirely not prejudicial and has not been the basis of the decisions of the panel then and now.
4. Fourthly, the quotation ascribed to me in the *Board of Governors, Achimota School v Nii Ako Nortei II and 2 Others* has been taken completely out of context, and amounts to lack of an appreciation of my judicial oath, training and practice. In this respect, I wish to react as follows:-
 - i. On the 25th of November 2019, one Sulemana Mahama, Executive Secretary of the 2nd defendants in this case, Lands Commission swore to an affidavit in which very important and far reaching depositions has been made which if proven would constitute a denial for the reliefs the Petitioner had been pursuing in the law courts. Out of abundance of caution I attach and exhibit the said sworn affidavit as JD1.
 - ii. It should further be noted that, the said deponent made very serious depositions against their own staff, a lawyer paid from the public funds in paragraph II of the said affidavit.
 - iii. Indeed, as the President of the Court in the Board of Governors case *supra*, I am by the practice of our profession entitled to draw parallels in that case and the one in respect of which the petition has been authored. The reason being that, in both cases, it is the same Lands Commission staff, who were reputed to have colluded, aided and assisted interested parties with the sole intention of claiming huge

compensation claims from the Government notwithstanding the fact that the said compensations had long been paid to the predecessors of the petitioner herein and the 1st Defendant therein in the Achimota case. Indeed it should be noted by all and sundry that as Judges, we have a duty to prevent people from creating situations to enrich themselves. In other words, much as we are to protect the interests of all litigants before the courts, we also have the same interest to defend and protect the public purse. Therefore, whenever it appears to me as a Judge that some group of people want to re-create the phenomenon of *"create, loot and share"* I will not shirk in my judicial duties by endorsing such a conduct. Thus, My Lord Chief Justice, a quick reference to paragraphs 15 to 22, make very interesting and startling revelations which should not be glossed over by reliance on procedural niceties. Indeed, the same scenario where vital information has been suppressed in the Board of Governors of Achimota School case looked familiar like the depositions in the affidavit referred to supra. In the quotation which the petitioner referred to, it is interesting to observe that, part of this quotation reads, *"... where we had to deal with issues of suppression of vital and material evidence by officials of the 3rd defendant which if made available would have put the evidence before the court for adjudication."* *Emphasis*

Notwithstanding the existence of the evidence, the court will still have to adjudicate the matter and come to a conclusion one way or the other with the right of appeal to any losing party.

- iv. There is therefore nothing in the above quotation which directly or indirectly suggests that I had reached a decision or conclusion in the matter even before the case is heard.

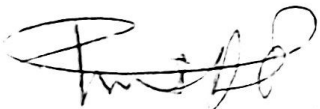
v. The complaints about proceedings held on 24th July 2020 and 30th July 2020 are with respect an insult to the case management abilities and capacity of the court and especially of the Chief Justice when he presides.

In any case, decisions are always collectively taken and this assertion by the Petitioner flies foul in the face of the court and the settled practice of the court and should not be countenanced.

vi. Finally, my Lord Chief Justice much as I am of the considered view that that the petitioner herein should not be allowed to pick and choose his own court, and also be permitted to smear the court with unfounded baseless and spurious allegations without substance, I am prepared to recuse myself if you so decide.

Respectfully submitted.

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Justice Victor Jones M. Dotse