

**IN THE SUPERIOR COURT OF JUDICATURE  
IN THE HIGH COURT OF JUSTICE  
ACCRA – AD 2015**

**SUIT NO:**

**HIS LORDSHIP JUSTICE PAUL UTER DERY**

Unnumbered House  
Spintex Road  
Accra

**PLAINTIFF**

**VRS**

**1. TIGER EYE P I**

Ampoma House  
Dzorwulu-Accra

**1<sup>ST</sup> DEFENDANT**

**2. THE DIRECTOR- GENERAL OF THE  
CRIMINAL INVESTIGATIONS DEPARTMENT**

C.I.D Headquarters  
Accra

**2<sup>ND</sup> DEFENDANT**

**3. THE ATTORNEY GENERAL**

Attorney General's Department  
Ministries Accra  
(Plaintiff shall direct service)

**3<sup>RD</sup> DEFENDANT**

---

**STATEMENT OF CLAIM**

---

1. The Plaintiff is at all material times a Justice of the High Court of Ghana.
2. The 1<sup>st</sup> Defendant is a limited liability company registered under the laws of Ghana.
3. The 2<sup>nd</sup> Defendant is the Director-General of the Criminal Investigations Department of the Ghana Police Service.

4. The 3<sup>rd</sup> Defendant is the principal legal advisor to the Government of Ghana and the person against whom all civil proceedings against the State and its organs shall be directed at.
5. The Plaintiff avers that he was formerly the presiding Judge of Fast Track Court 3 which is constituted to determine criminal and civil cases and was thereafter transferred to the High Court, Sekondi.
6. The Plaintiff avers that he received a call from the office of the Honourable Chief Justice requesting him to report to her office on the 10<sup>th</sup> of September, 2015.
7. The Plaintiff avers that consequently, he proceeded to the Honourable Chief Justice's office wherein he was handed over a letter dated 9<sup>th</sup> September, 2015 titled **"Petition in Accordance with Article 146 of the 1992 Constitution on allegation of Bribery"**.
8. The Plaintiff avers that he duly perused the said letter dated 9<sup>th</sup> September, 2015, and found that an allegation of bribery was levelled against him by the 1<sup>st</sup> Defendant in respect of a case he presided over titled: **The Republic v. Kwame Dzato**.
9. The Plaintiff avers that the Honourable Chief Justice attached a copy of the transcript of the particulars of the alleged misconduct.
10. The Plaintiff further avers that the letter from the Honourable Chief Justice stated that His Excellency, the President forwarded the 1<sup>st</sup> Defendant's petition for her action as required under Article 146 of the 1992 Constitution of Ghana which petition was accompanied by audio visual recordings.
11. The Plaintiff avers that the said audio visual recordings purportedly contain the evidence in support of the allegations of bribery levelled by the 1<sup>st</sup> Defendant against the Plaintiff.

12. The Plaintiff avers that he issued a Writ of Summons and Statement of Claim against the 1<sup>st</sup> Defendant, the Honourable Chief Justice, and the 3<sup>rd</sup> Defendant on the 14<sup>th</sup> of September, 2015 and subsequently filed an Amended Writ of Summons and Statement of Claim on the 23<sup>rd</sup> of October, 2015 in suit number **AP 228/15**.
13. The Plaintiff further avers that he also filed a Writ Invoking the Original Jurisdiction of the Supreme Court on the 23<sup>rd</sup> of September, 2015 with suit number **J1/29/15**.
14. The reliefs the Plaintiff seeks by this writ filed on the 14<sup>th</sup> of September, 2015 with suit number **AP 228/15** include the following:
  - a. A declaration that the 1<sup>st</sup> Defendant obtained the contents of the audio visual recordings unlawfully.
  - b. A declaration that the contents of the audio visual recordings, having been unlawfully obtained by the 1<sup>st</sup> Defendant cannot be used in any proceedings whatsoever and however described before any adjudicating authority involving the Plaintiff.
15. The reliefs the Plaintiff seeks by his writ with suit number **J1/29/15** , from the Supreme Court among others are:
  - a. A declaration that all proceedings however and whatsoever described arising out of the contents of the Petition the 1<sup>st</sup> Defendant sent to the President be declared null and void.
  - b. A perpetual injunction against any adjudicating body however and whatsoever described from determining any issues arising out of the contents of the Petition.
  - c. An order restraining any adjudication body however and whatsoever described from determining any issues arising out of the contents of the said

petition filed by the 1<sup>st</sup> Defendant during the pendency of the instant suit before the Supreme Court.

16. The Plaintiff avers that his lawyers received a telephone call on the 9<sup>th</sup> of November, 2015 from the office of the 2<sup>nd</sup> Defendant inviting the Plaintiff to the Criminal Investigation Department to assist the police in the investigation of the allegations made by the 1<sup>st</sup> Defendant.
17. The Plaintiff avers that from the reliefs sought from the suits **AP 228/15** and **J1/29/15**, the 2<sup>nd</sup> Defendant's invitation to him to assist the police in its investigations of the allegations made by the 1<sup>st</sup> Defendant against the Plaintiff would amount to interfering with the pending suits.
18. The Plaintiff avers that pursuant to **Article 127(3) of the 1992 Constitution**, a Justice of the Superior Court, shall not be liable to any action or suit for any act or omission by him in the exercise of the judicial power.
19. The Plaintiff further avers that the said invitation by the 2<sup>nd</sup> Defendant to its office to assist in investigations into the allegations levelled against him by the 1<sup>st</sup> Defendant is unconstitutional and unlawful.
20. **WHEREFORE** the Plaintiff claims against the Defendants jointly and severally, as follows:
  - a) A declaration that having regard to suit numbers **AP 228/15** and **J1/29/15**, in court challenging the petition filed by the 1<sup>st</sup> Defendant against the Plaintiff, the 2<sup>nd</sup> Defendant cannot purport to investigate the Plaintiff.
  - b) A declaration that on a true and proper construction of Article 127(3) of the 1992 Constitution, the judgment delivered by the Plaintiff in the case titled **The Republic v. Kwame Dzato** in the exercise of the Plaintiff's power as a Justice of the Superior Court is immune from a civil or criminal proceedings for any act or omission by the Plaintiff in the exercise of the said power.

- c) A declaration that on a true and proper construction of Article 127(3) of the 1992 Constitution, any complaint lodged by the 1<sup>st</sup> Defendant with the 2<sup>nd</sup> Defendant against the Plaintiff in respect of the judgment he delivered in the case title **The Republic v. Kwame Dzato** in the exercise of the Plaintiff's power as a Justice of the Superior Court is in contravention of Article 127(3) of the 1992 Constitution and therefore unconstitutional.
- d) A declaration that on a true and proper construction of Article 127(3) of the 1992 Constitution, the Plaintiff as a Justice of a Superior Court, cannot be investigated by the 2<sup>nd</sup> Defendant, its assigns, agents and privies for any act or omission by him in the exercise of his judicial power in the judgment he delivered in the case: **The Republic v. Kwame Dzato**.
- e) A declaration that on a true and proper construction of Article 127(3) of the 1992 Constitution, the Plaintiff as a Justice of a Superior Court, cannot be prosecuted by the 3<sup>rd</sup> Defendant, its assigns, agents and privies for any act or omission by him in the exercise of his judicial power in the judgment he delivered in the case: **The Republic v. Kwame Dzato**.
- f) A perpetual injunction restraining the 2<sup>nd</sup> Defendant from commencing any criminal investigation against the Plaintiff in the exercise of his judicial power in the judgment he delivered in the case: **The Republic v. Kwame Dzato**.
- g) A perpetual injunction restraining the 3<sup>rd</sup> Defendant from commencing any civil or criminal action against the Plaintiff in the exercise of his judicial power in the judgment he delivered in the case: **The Republic v. Kwame Dzato**.
- h) Cost including legal fees.
- i) Any other order (s) that the Honourable Court may deem fit to make.

DATED IN ACCRA THIS 9<sup>TH</sup> DAY OF NOVEMBER, 2015.

The Registrar  
High Court  
Accra.

**NII KPAKPO SAMOA ADDO (Esq.)**  
**Lawyer for the Plaintiff**  
**License No. GAR 09817/15**

And to the above named Defendants