

IN THE SUPERIOR COURT OF JUDICATURE, IN THE HIGH COURT OF JUSTICE (GENERAL JURISDICTION COURT 5) HELD IN ACCRA ON MONDAY THE 27TH DAY OF NOVEMBER, 2023 BEFORE HIS LORDSHIP JUSTICE WILLIAM BOAMPONG, HIGH COURT JUDGE

SUIT NO. GJ/1232/2022

IN THE MATTER OF THE OFFICE OF THE SPECIAL PROSECUTOR: ACT, 2017 (ACT 959) AND THE OFFICE OF THE SPECIAL PROSECUTOR (OPERATIONS) REGULATIONS, 2018 (L.I. 2374) AND THE 1992 CONSTITUTION

AND

IN THE MATTER OF AN APPLICATION BY COLONEL KWADWO DAMOAH (RTD) AND JOSEPH ADU-KYEI FOR THE ENFORCEMENT OF THEIR FUNDAMENTAL RIGHTS TO NATURAL JUSTICE AND AGAINST ABUSE OF DISCRETIONARY POWER UNDER ARTICLE 296 OF THE 1992 CONSTITUTION

AND

IN THE MATTER OF AN APPLICATION BY COLONEL KWADWO DAMOAH (RTD) AND JOSEPH ADU-KYEI FOR JUDICIAL REVIEW PURSUANT TO ARTICLE 141 OF THE 1992 CONSTITUTION, SECTION 16 OF THE COURTS ACT, 1993 (ACT 459), AND ORDER 55 OF C.I. 47

AND IN THE MATTER OF:

THE REPUBLIC

VS

1. THE OFFICE OF THE SPECIAL PROSECUTOR

6 HAILE SELASSIE AVE
SOUTH RIDGE
ACCRA

2. MR. EMMANUEL AMADU BASINTALE
FORMER SUPRINTENDENT OF POLICE (SEKONDI)
NOW OF THE OFFICE OF THE SPECIAL PROSECUTOR
6 HAILE SELASSIE AVE
SOUTH RIDGE
ACCRA

—RESPONDENTS

EX-PARTE:

1. **COLONEL KWADWO DAMOAH (RTD)**
NO. 5 RANGOON VILLAS
7TH RANGOON CLOSE
CANTONMENTS, ACCRA
2. **JOSEPH ADU-KYEI**
DEPUTY COMMISSIONER OF CUSTOMS
MINISTRY OF FINANCE
REVENUE POLICY DIVISION
MINISTRIES, ACCRA

APPLICANTS

R U L I N G

Introduction:

“Certiorari would be issue to quash the records of an inferior Tribunal for error of law apparent on the face of the records where such inferior Tribunal had acted without jurisdiction or in excess of jurisdiction or had abused its powers. Lack of jurisdiction might arise from lack of authority to enter into the inquiry or some part of it or from a condition precedent to the exercise of jurisdiction. Where however the Tribunal had the power to act, the exercise of such power would include the right to err, an appeal would be the proper remedy”

See the case of:

R v Court of Appeal; Ex-parte Bediako IV [1994-95] GBR 566

In this light I would cautiously determine this application of Judicial Review by not concerning myself with the decision the 1st Respondent made, but rather the way the decision was made.

This my stand is buttress by the Supreme Court case of:-

R vrs. High Court, Cape Coast, Ex-parte John Boadzie

Civil Motion J5/74/2019 dated 12th February, 2020

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5-12-2023

In effect the invitation extended to me is to determine as to whether or not the 1st Respondent i.e. the Office of the Special Prosecutor in arriving at its decision.

1. Acted ultra vires to its powers.
2. Committed a breach of the rules of Natural Justice which includes failing to give a person a hearing, followed the required procedure in giving hearing, or was a judge in its own cause.
3. Lacked jurisdiction or acted in excess of its jurisdiction.
4. Committed any patent error on the face of the records.

FACTS OF THE CASE:

APPLICANTS' CASE:

The Applicants state that the 1st Respondent in an almost identical letters headed:-

“Directions to attend the Office of the Special Prosecutor” signed and addressed to the 1st and 2nd Applicants dated 20th December, 2021 and 7th February, 2022 had the following contents:-

“The Office of the Special Prosecutor (OSP) has commenced investigations into suspected corruption and corruption-related offences in respect of the evasion and valuation of duties relating to frozen and processed food products imported into Ghana by La Bianca Company Limited between 2017-2021.

The Office of the Special Prosecutor considers you a person necessary for the investigations. You are directed to attend, in person the Office of the Special Prosecutor at 6 Haile Selassie Avenue, South Ridge, Accra GA-079-0906 on Thursday 6 January 2022 at 11:30 in the forenoon for interviewing. You may be accompanied by Counsel of your choice”.

This is per Exhibits “KD4” and “KD5”. When the Applicants attended the Office of the 1st Respondent, they were directed to appear before a two-person interview panel chaired by the 2nd Respondent.

The 2nd Respondent informed the Applicants in the presence of their respective lawyers that they had been invited as witnesses to assist the investigations consequently no caution words or statement were administered to either the Applicants.

The 2nd Applicant wrote a witness statement for the 1st Respondent. 1st Applicant was given a witness statement form to complete and returned same.

The Applicants were never invited again by the 1st Respondent for any further interview or interrogations for the commission of any specified corruption and corruption-related offences.

To the surprise of the Applicants on the 8th August 2022, the 1st Respondent, acting by Mr. Kissi Agyabeng, its Special Prosecutor published through the electronic and print media a report entitled:-

“Report of investigation into Alleged Commission of corruption and Corruption Related Offences involving Labianca Group of Companies and the Custom Division of the Ghana Revenue Authority” in which adverse findings were made against the Applicants and one other for having committed corruption and or corruption-related offences pursuant to the aforesaid investigations.

This said report by the 1st Respondent had been attached to this application as Exhibit “KD7” by the Applicants and Exhibit “OSP6” by the respondent.

RESPONDENTS CASE:

The case of the Respondents is that on the 16th November 2021, the 1st Respondent received a complaint from one Frank Asare requesting the 1st

Respondent to investigate the activities of Labianca Company Ltd. and the Custom Division of the Ghana Revenue Authority on the allegation that the two named entities were engaged in corruption and corruption-related activities in respect of import duties and associated revenue loss to the state.

Upon this complaint, the 1st Respondent wrote to the Applicants informing them of the commencement of investigation into suspected corruption and corruption related offences in respect of the evasion and evaluation of duties relating to frozen and processed food products imported into Ghana by Labianca Company Limited between 2017-2021. The invitation letters to the Applicants stated that same was for the purpose of being “*interview*” as a person necessary for “*investigations*”.

It further informed them of their right to appear in person or to be accompanied by lawyers of their choice.

Both Applicants were interviewed by a two member panel chaired by the 2nd Respondent. Upon the said investigations the 1st Respondent published its finding in which it **made adverse findings against the Applicants.**

The 1st Respondent findings is attached as Exhibit “OSP6”.

Pursuant to the publication of the Report entitled:-

“Report of investigation into alleged Commission of Corruption and corruption related offences involving Labianca Group of Companies and the Custom Division of Ghana Revenue Authority” attached to this application by Applicants as Exhibit “KD7”, the Applicants had filed this application praying for an Order of Judicial Review under Article 141 of the 1992 constitution, Section 16 of the Court Act, 1993 (Act 459) and Judicial Review jurisdiction of this Court under Order 55 of C.I. 47.

The Applicants pray the Court to use its Judicial Review jurisdiction to determine the issue as set out in paragraph 59 (i) – vii) of the Affidavit in Support of this application as follows:-

- “ (i) Whether or not the 1st Respondent acted ultra vires its statutory mandate under Sections 2(a) and (b), 3 and 79 of the Office of the Special Prosecutor Act, 2017 (Act 959) and Regulation 7 of the Office of the Special Prosecutor (Operations) Regulations, 2018 (L. I. 2374) when it wrote and published on 8th August 2022 in the electronic and print media the report titled: "Report of Investigation into Alleged Commission of Corruption and Corruption-Related Offences involving Labianca Group of Companies and the Customs Division of the Ghana Revenue Authority" dated 3rd August 2022 for the trial in the Court of public opinion of the 1st and 2nd Applicants instead of a Court of law.
- (ii). Whether or not the 1st Respondent acted ultra vires its statutory mandate under Sections 2(a) and (b), 3 and 79 of Act 959 and Regulation 7 of L. I. 2374 when without establishing any specified suspected commission of any corruption and/or corruption-related offence(s) against the 1st and 2nd Applicants the 1st Respondent proceeded to make decisions containing adverse findings and directives against the Applicants based on a purported interpretation of the Customs Act, 2015 (Act 891) and the Revenue Administration Act, 2016 (Act 915).
- (iii). Whether or not the 1st Respondent acted ultra vires its statutory mandate by making decisions containing adverse findings and directives in the published Office of the Special Prosecutor Labianca Report against the 1st and 2nd Applicants who became protected witnesses under Section 72 of Act 959, and in breach of the fundamental rights to natural justice of the 1st and 2nd Applicants to be heard before the Office of the Special Prosecutor Labianca Report was made and published for the trial of the

1st and 2nd Applicants in the Court of public opinion instead of a Court of law.

- (iv) Whether or not the 1st Respondent acted ultra vires its statutory mandate under Sections 21, 28, and 74 of Act 959 and Regulations 2, 3, 12, 16, and 18 of L. I. 2374 when it used or engaged the services of the 2nd Respondent, an unauthorized officer to constitute an investigation panel to investigate and interview the 1st and 2nd Applicants as witnesses in the Labianca Company Limited and Customs Division of the Ghana Revenue Authority investigation.
- (vi). Whether or not the 1st Respondent acted ultra vires its statutory mandate aforesaid when it engaged the services of the 2nd Respondent who at the time was a serving Superintendent of Police assigned to police prosecution duties in the Western Region to interview the 1st and 2nd Applicants, submit a report with recommendations based upon which the 1st Respondent's Office of the Special Prosecutor Labianca Report dated 3 August 2022 was made and published to damnify the 1st and 2nd Applicants.
- (vii) Whether or not there are any corruption/and or corruption-related offence(s) known as "conflict of interest", "influence peddling or trading of influence" or conduct and/or action indicating"... a high propensity to engender corruption and corruption-related activities" under Sections 2(a), 3 and 79 of Act 959 as referred to in the 1st Respondent's Office of the Special Prosecutor Labianca Report dated 3 August 2022, to have warranted the decisions containing the adverse findings and directives made by the Special Prosecutor, Mr. Kissi Agyebeng, against the 1st and 2nd Applicants or any other person as the 1st Respondent purported to have done and published in the media for the trial of the 1st and 2nd Applicants herein, in the Court of public opinion instead of a court of law.

The Applicants seek for the Reliefs as set out in paragraph 60 of the Affidavit in Support as follows:-

- (i) A Declaration that upon a true and proper interpretation of Sections 2(a), 3 and 79 of the Office of the Special Prosecutor, Act 2017 (Act 959) and Regulations 5, 6, and 7 of the Office of the Special Prosecutor (Operations) Regulations, 2018 (L. I. 2374), the 1st Respondent had no mandate or jurisdiction to have converted the report and recommendations of the purported investigation panel submitted to the Special Prosecutor, into the Office of the Special Prosecutor Labianca Report dated 3 August 2022 in which decisions containing adverse findings and directives were made against the 1st and 2nd Applicants and published in the electronic and print media for their trial by public opinion instead of in a court of law.
- (ii) A Declaration that on a true and proper interpretation of Section 72 of the Office of the Special Prosecutor Act, 2017 (Act 959) the 1st Respondent acted without authority or jurisdiction in making decisions containing adverse findings and directives against the 1st and 2nd Applicants or any other person as protected witnesses when they had not been cautioned or charged with any specified suspected corruption and/or corruption-related offence(s) and causing same to be published in the electronic and print media.
- (iii) A Declaration that on a true and proper interpretation of Sections 2(a) and (b), 3 and 79 of the Office of the Special Prosecutor Act, 2017 (959) and Regulations 5, 6, and 7 of the Office of the Special Prosecutor (Operations) Regulations, 2018 (L. I. 2374), Sections 12, and 151 of the Customs Act, 2015 (Act 891), and Sections 103 to 106 of the Revenue Authority Act, 2016 (Act 915), the proper statutory authority with jurisdiction to establish "the evasion and valuation of

customs duties relating to frozen and processed food products imported into Ghana" and accept the assessed customs values thereto for payment of customs duty, or duty short-levied, into any public account, in the absence of the establishment by the 1st Respondent of any specified commission of any corruption and/or corruption-related offence(s), is the Commissioner-General of the Ghana Revenue Authority and not the 1st Respondent acting by the Special Prosecutor.

- (iv) A Declaration that on a true and proper interpretation of Sections 21, 28, and 74 of the Office of the Special Prosecutor Act, 2017 (Act 959) and Regulations 2, 3, 12, 16, and 18 of the Office of the Special Prosecutor (Operations) Regulations, 2018 (L. I. 2374), the 1st Respondent acted ultra vires in holding out, permitting, and allowing the 2nd Respondent, to present himself as the Head of the Investigation Panel and to interview the 1st and 2nd Applicants resulting in the report and recommendations of the investigation panel submitted to the 1st Respondent upon which decisions containing adverse findings and directives were made in the 1st Respondent's Office of the Special Prosecutor Labianca Report dated 3 August 2022 against the 1st and 2nd Applicants, and published in the media when the 2nd Respondent was not an authorized officer or investigator of the 1st Respondent.
- (v) A Declaration that there is no corruption/and or corruption-related offence(s) known as "conflict of interest", "influence peddling or trading of influence" or conduct and/or activity indicating "... a propensity to engender corruption and corruption-related activities" under Sections 2(a), 3 and 79 of Act 959 as referred to in the 1st Respondent's (Office of the Special Prosecutor) Labianca Report dated 3 August 2022, to have mandated or warranted the decisions

containing adverse findings and directives made by the 1st Respondent against the 1st and 2nd Applicants or any other person.

- (vi) A Declaration that accordingly, any and/or all the purported proceedings from 10th January 2022, 19 January 2022 and 16th February 2022 together with the report and recommendations of the investigation panel, and in particular the decisions, adverse findings and directions contained in the "Report of Investigation into Alleged Commission of Corruption and Corruption-Related Offences involving Labianca Group of Companies and the Customs Division of the Ghana Revenue Authority" dated 3 August 2022 are ultra vires the 1st Respondent's mandate, forbidden, illegal, irrational, procedurally improper and violative of the letter and spirit of Act 959 and L. I. 2374; and are accordingly null, void and without effect whatsoever.
- (vii) An Order of Certiorari to quash and to remove from the Registry/Records of the 1st Respondent, the Office of the Special Prosecutor, for purposes of being quashed, the proceedings of the investigation panel, particularly the report of the 1st Respondent, Office of Special Prosecutor, dated 3rd August 2022 called, "Report of Investigation into Alleged Commission of Corruption and Corruption-Related Offences involving Labianca Group of Companies and the Customs Division of the Ghana Revenue Authority" in so far as it relates to investigations into violations of Sections 2(a), 3 and 79 of the Office of the Special Prosecutor, Act 2017 (Act 959) and Regulations 5, 6, and 7 of the Office of the Special Prosecutor (Operations) Regulations, 2018 (L. I. 2374), relating to the commission of corruption and/or corruption-related offences on grounds of jurisdictional error on the face of the record, irrationality, and procedural impropriety.

- (viii) An Order of Certiorari to quash and to remove from the Registry/Records of the 1st Respondent, the Office of the Special Prosecutor, the adverse findings of "conflict of interest", "influence peddling or trading of influence" or conduct and/or activity indicating "... a propensity to engender corruption and corruption-related activities" made against the Applicants contained in the decisions and directions of the 1st Respondent's said report dated 3rd August 2022 which are not specified corruption and corruption-related offences under Act 959, on grounds of jurisdictional error on the face of the record, irrationality, and procedural impropriety.
- (ix) An Order of Prohibition to prohibit the 1st Respondent from assuming jurisdiction and making any report containing decisions, adverse findings and directives against the Applicants or other persons similarly situated, and publishing same in the electronic and print media by virtue of any report and recommendations by the 1st Respondent in violation of Sections 2(a) and (b), 3 and 79 of Act 959 and Regulations 5, 6, and 7 of L. I. 2374 for the alleged commission of corruption and/or corruption-related offence(s) in the future except in accordance with Section 3(3) of Act 959 and or in a court of law.
- (x) A Order of Prohibition to prohibit the 1st Respondent from assuming the authority to employ the services of unauthorized persons, such as the 2nd Respondent, who have not been recruited and or appointed in accordance with Sections 21, 28, and 74 of the Office of the Special Prosecutor Act, 2017 (Act 959) and Regulations 2, 3, 12, 16, and 18 of the Office of the Special Prosecutor (Operations) Regulations, 2018 (L. I. 2374), in the investigation and/or prosecution of any offences under Sections 2(a), 3, and 79 of Act 959 in order to prevent the recurrence of the 1st Respondent's ultra vires actions against the

Applicants herein that resulted in bringing this Application for Judicial Review.

- (xi) An Order restraining the 2nd Respondent from holding himself out as an authorized officer for the purposes of the investigation and/or prosecution of any offences under Sections 2(a), 3 and 79 of Act 959 for or on behalf of the 1st Respondent without being properly recruited and appointed in accordance with Article 195 of the 1992 Constitution and Sections 21, 28, and 74 of the Office of the Special Prosecutor Act, 2017 (Act 959) and Regulations 2, 3, 12, 16, and 18 of the Office of the Special Prosecutor (Operations) Regulations, 2018 (L. I. 2374).
- (xii) Any further orders or directions that this Honourable Court may deem appropriate to give full effect or to enable effect to be given to the letter and spirit of the 1992 Constitution, the Office of the Special Prosecutor Act, 2017 (Act 959) and the Office of the Special Prosecutor (Operations) Regulations, 2018 (L. I. 2374) for the purposes of enforcing or securing the enforcement of the supervisory and judicial review powers of the Court.

The Applicants accordingly pray for the Reliefs as contained in paragraph 61 of Affidavit in Support as follows:-

- (i) The 1st Respondent's decision to constitute an investigation panel pursuant to Sections 2(a), 3 and 79 of the Office of the Special Prosecutor Act, 2017 (Act 959) and Regulations 6 and 7 of the Office of the Special Prosecutor (Operations) Regulations, 2018 (L. I. 2374) to investigate "suspected corruption and corruption-related offences in respect of the evasion and valuation of duties relating to frozen and processed food products imported into Ghana by La Bianca Company Limited between 2017-2021" and to submit a report and recommendations to the 1st Respondent, the purported investigation panel having been chaired by the

2nd Respondent, an unauthorized officer of the 1st Respondent, was ultra vires the mandate of the 1st Respondent under Act 959 and Regulations L. I. 2374.

- (ii) The review determination of the investigation panel's report and recommendations pursuant to Regulation 7 of L. I. 2374 under the chairmanship of the 2nd Respondent made by the 1st Respondent acting through the Special Prosecutor, Mr. Kissi Agyebeng, dated 3rd August 2022 and published in the media on 8th August 2022 on behalf of the 1st Respondent as "Report of Investigation into Alleged Commission of corruption and Corruption-Related Offences involving Labianca Group of Companies and the Customs Division of the Ghana Revenue Authority" was made in violation of Article 296 of the 1992 Constitution and without any statutory mandate or jurisdiction under Sections (2) (a) and (b), 3 and 79 of Act 959 and Regulation 7 of L. I. 2374 and is accordingly unreasonable, illegal and void ab initio.
- (iii) The decision of the 1st Respondent to recruit and engage the services of the 2nd Respondent who was not seconded, transferred or appointed pursuant to Sections 21, 28, and 74 of the Office of the Special Prosecutor Act, 2017 (Act 959) and Regulations 2, 3, 12, 16, and 18 of the Office of the Special Prosecutor (Operations) Regulations, 2018 (L.I. 2374) was ultra vires the statutory mandate of the 1st Respondent and was unreasonable, and unlawful.
- (iv) The report containing the decisions, adverse findings and directives dated 3rd August 2022 and published in the media on 8th August 2022 as the Office of the Special Prosecutor's Labianca Report by the 1st Respondent acting by the Special Prosecutor, Mr. Kissi Agyebeng, against the 1st and 2nd Applicants who were statutorily protected witnesses under Section 72

of Act 959 is in breach of their fundamental rights to natural justice as the applicants were not cautioned or charged with any specified corruption and/or corruption-offence(s), and were accordingly made without mandate or jurisdiction, and are consequently unlawful, null, and void ab initio.”

It is observed that the issues for determination, Reliefs sought and the grounds for the reliefs as stated in paragraphs 59, 60, and 61 of the Affidavit in Support appear to be a bit jammed up.

For clarity and convenience sake I would summarize same as follows:-

1. *Issues to be determined:*

- a) Whether or not the 1st Respondent in issuing its Report Exhibit “DK7” or “OSP6” acted beyond its powers.
- b) Committed any breach of the rules of Natural Justice.
- c) Lacked jurisdiction or acted in excess of jurisdiction or committed a patent error on the face of the Records.

2. *Reliefs sought:*

- a) To bring up the decision, orders, Directives in the Office of the Special Prosecutor’s Report and quash same.

3. *Grounds of the application:*

- a) The grounds are the same as contained in the triable issues.

In determining the triable issues, the functions and or mandate of the 1st Respondent (O.S.P) must clearly be spelt out to enable us to ascertain as to whether or not the 1st Respondent acted within its mandate when it dealt with the Applicants.

The functions and mandate of the 1st Respondent (O.S.P) was clearly spelt out in the case of:-

The Republic vrs Mahama Ayariga & Krendrick Akwesi Marfo

Suit No. MSFT/23/2019

Dated 7th May 2021 (Unreported)

CORAM: Her Ladyship Justice Afia Serwaa

Asare-Bowtwe (J) (as she then was)

Her Ladyship ruled among others in that case as follows:-

“To settle this matter, recourse will have to be had to the legislative under which the Special Prosecutor functions.

Section 2 & 3 of Act (959) on the object and the function of the office state:

Object of office:

- (2) The object of the office is to
- a) Investigate and prosecute specific case of alleged or suspected corruption and corrupt-related offences;
 - b) Recover the proceeds of corruption and corruption-related offences, and
 - c) Take steps to prevent corruption

FUNCTIONS OF OFFICE:

3(1): To achieve the object, the office shall

- a) Investigate and prosecute cases of alleged or suspected corruption and corruption related offences under the Public Procurement Act, 2003 (Act 663)
- b) Investigate and prosecute allegations of corruption and corruption-related offences under the Criminal Offences Act 1960, (Act 29) involving public Officers politically exposed persons and persons in the private sector involved in the commission of the offences;
- c) Investigate and prosecute alleged or suspected corruption and corruption related offences involving Public Officers, politically exposed persons

and persons in the private sector involved in the commission of the offence under any other relevant law;

- d) recover and manage the proceeds of corruption;
- e) disseminate information gathered in the course of investigations to competent authorities and other persons the office considers appropriate in connection with the offences specified in paragraphs (a) & (b).
- f) co-operate and coordinate with competent authorities and other relevant local and international agencies in furtherance of this Act.
- g) Receive and investigate complaints from persons on a matter that involves or may involve corruption and corruption-related offences;
- h) Receive and act on referrals of investigation of alleged corruption and corruption related offences by parliament, the Auditor-General's office, the Commission on Human Rights and Administrative Justice, the Economic and Organized Crime, and any other public body and
- i) perform any other functions connected with the object of the office.

Further, Section 79(c) of the Act interprets "corruption and corruption-related offences to mean

- a) Sections 146, 151, 179C, 239, 252, 253, 254, 256, 258, & 260, of the Criminal Offences Act, 1960 (Act 29).
- b) Sections 92 (2) of the Public Procurement Act 2003, (Act 663) and
- c) Existent offences under enactments arising out of or consequent to offences referred to in paragraphs (a) & (b)".

Under the Act "politically exposed persons" includes

- a) A person who is or has been entrusted with a prominent public function in this country, a foreign country or an international organization including
 - (i) a Senior political party official, Government, Judicial or Military official

- (ii) a person who is or has been an executive in a foreign country or a state owned company
- (iii) a senior political party official in a foreign country and
- (iv) an immediate family member or close associate of a person referred to in paragraph (a)...

In a nutshell the context of the functionality and powers of the Office of the Special Prosecutor are set out in its Act of creation that is the “Office of the Special Prosecutor Act 2017 (Act 959), Section 2 that mandates the office of the Special Prosecutor to investigate and prosecute specific cases of alleged or suspected corruption and corruption-related offences; recover the proceeds of corruption and corruption-related offences, and take steps to prevent corruption. In order to ascertain as to whether or not the 1st Respondent (O.S.P) acted within its mandate or jurisdiction I have to establish what exactly the Office of the Special Prosecutor did in its investigations of the Applicants and the subsequent Report generated from the investigations.

Thus the Results of the said investigation which formed the “Report of Investigation into alleged commission of corruption and corruption related offences involving Labianca Group of Companies and the Custom Division of the Ghana Revenue Authority” made adverse findings against the Applicants.

This Report was attached by the 1st Respondent in its Affidavit in its Opposition as Exhibit “OSP6”.

The crux of the adverse findings made against the Applicants in Exhibit “OSP6” is as contained in paragraphs 4.30, 4.31, 4.33 and 4.34 of the Office of the Special Prosecutor’s Report, however not limited to those paragraphs are as follows:-

“4.30

The Office of the Special Prosecutor finds that Mr. Adu Kyei's decision to issue custom advance ruling to Applicants, resulted in a short collection of or shortfall in revenue in the amount of One Million and Seventy-Four Thousand, Six Hundred and Twenty Seven Ghana Cedis, Fifteen Pesewas (GH¢1,074,627.15) from a total of Five Hundred and Thirty-One (531) declaration in respect of Labianca. Therefore it lies ill in Mr. Adu Kyei's mouth to claim that he saved the Republic financial loss by his conduct, and his claim bases for decision are unsupportable afterthought.

4.31:

The Office of the Special Prosecutor finds that through Colonel (Rtd) Damoah sought to distance himself from Mr. Adu Kyei's decision during his interview on 16th February 2022, he gave his tacit approval to the decision and the determination stood to benefit of the Applicants, indeed, Mr. Adu Kyei's decision would not have passed muster but for Colonel (Rtd) Damoah's apparent approval. The half-hearted seeming recantation is unhappily belated and does not absolve Colonel (Rtd) Damoah of ultimate responsibility for the apparently contrived decision

4.33:

The Office of the Special Prosecutor finds that there is strong evidence to suggest that Mr. Adu Kyei's decision to issue a custom advance ruling for the Applicant was procured through influence peddling or trading of influence by Ms. Asoma-Hinne by employing her position as a member of the Council of State and a member of the Board of Director of Ghana Port and Harbours Authority.

4.34:

The Office of the Special Prosecutor further finds that the conduct of Mr. Adu Kyei and the placid coddling by Colonel (Rtd) Damoah portends an institutionalized culture of lighthearted unconcern regarding impropriety of

action at the Custom Division of the Ghana Revenue Authority-which indicates a high propensity to engender corruption and corruption-related activities.”

It is these **adverse findings** and others made against the Applicants by the 1st Respondent and published in the electronic and print media that the Applicants are challenging the mandate of the 1st Respondent in so doing.

To the Applicants the 1st Respondent acted in excess of its jurisdiction in so doing.

According to the Applicants these act of the 1st Respondent had subjected them to a trial in the Court of Public opinion which had already adjudged them to be corrupt public officials without giving the Applicants any opportunity to be tried in a Court of law which is ceased with the competent jurisdiction to trial them.

The Applicants further contends that the processes and procedure which led to the 1st Respondent which made damning **adverse findings** against them are in itself contrary to the procedure as a clearly spelt out in Act 959 i.e. the Office of the Special Prosecutor Act, 2017, and its relevant regulations L.I. 2374 i.e. the Office of the Special Prosecutor Regulations, 2018.

Since the crux of this application is a Judicial Review in the nature of among other certiorari, the triable issues is not on the merits and substance of what the Special Prosecutor 1st Respondent (OSP) did, but rather the process that led to the 1st Respondent's Report (Exhibit OSP6) and its publication. I will proceed in the determination of this case in that light.

DETERMINATION OF ISSUES:

The Applicants complain that the 1st Respondent breached the simple rule of Natural Justice when they appeared before 2nd Respondent.

I would first want to refer to letter that invited the Applicants to the 1st Respondent's Office.

The 1st Respondent in almost identical letters headed “Direction to Attend the Office of the Special Prosecutor” signed and addressed to the 1st and 2nd Applicants dated 20th December 2021 and 7th February 2022 informed each of the Applicants as follows:-

“The Office of the Special Prosecutor (OSP) has commenced investigations into suspected corruption and corruption related offences in respect of the evasion and valuation of duties relating to frozen and processed food products imported into Ghana by La Bianca Company Ltd. between 2017-2021.

The Office of the Special Prosecutor considers you a person necessary for the investigation. You are directed to attend, in person the Office of the Special Prosecutor at 6 Haile Selassie Avenue, South Ridge, Accra GA-0079-0906 on Thursday 6th January 2022 at 11:30 in the forenoon for interviewing. You may be accompanied by Counsel of your choice”

These letters are per Exhibit “KD4 & KD5”.

When the Applicants appeared before the Office of the Special Prosecutor they were interviewed by the 2nd Respondent. The 2nd Respondent before the interview informed the Applicants in the presence of their respective lawyers that they had been invited as witnesses to assist the investigations. No caution words or statements were administered to the Applicants. They were neither charged with any specified corruption and corruption-related offences under Section 79 of Act 959.

Counsel for the Applicants therefore submits that since the Applicants were not cautioned and or charged when they appeared before the 2nd Respondent they gave statements as witnesses. As a portion of their invitation letter to attend, the office of the Special Prosecutor indicates “*The Office of the Special Prosecutor*

considers you a person necessary for the investigation” They thus gave evidence as witnesses and became protected witnesses under Section 72(1) of Act 595.

However upon the statements of the Applicants which were not under a caution or charged statement, the (OSP) 1st Respondent breached their fundamental right to Natural Justice by generating an **adverse Report** against them and further publish same for the Court of Public opinion to judge them instead of a Court of law.

Counsel for the Applicants submits further that since the Applicants were not cautioned and charged, they ought to have been protected under Section 72(1) of Act 595 which states as follows:-

“Protection of witness

71(1) *The Special Prosecutor shall take necessary and reasonable steps to protect the safety and welfare of a witness”*

Counsel for the Applicants therefore strongly submits that it is not open to the 1st Respondent under Section 72(1) and regulation 7(2) of L.I. 2374 to decide to turn witnesses into suspects from whom no caution or charged statements have been taken for the 1st Respondent to make **adverse findings** against them, and publish same.

Counsel for the Respondents admit that when the Applicants appear before the 2nd Respondent for the conduct of the said investigations, the Applicants were not really cautioned and/or charged.

Counsel for the Respondents however submits that the purpose upon which the Applicants appeared before the 2nd Respondent demanded no need for the Applicants to be caution or charge since the 1st Respondent only intended to embark on the prevention of crime rather than prosecution of the Applicants.

He submits further that while the focus of regulation 7 of L.I. 2374 is on investigation for the purpose of prosecution which if that regulation is invoked demands that person under investigation must be cautioned and charged. In the instance case the 1st Respondent's counsel submits that it invoked regulations 5 & 6 of L.I 2374 in furtherance of its crime prevention mandated to investigate the allegation of the commission of corruption and corruption related offences to prevent the commission of corruption. Thus there was no need to take any caution and or charged statement from the Applicant.

The considered view of the Counsel for the Respondent is that the arguments advanced by the Counsel for the Applicants seemed to have only restricted the Office of the Special Prosecutor mandate to only to prosecute after investigation but regrettably forgetting the 1st Respondent's mandate of the prevention of crime after investigation by virtue of Regulations 5(1) (c) and 6(1) of L.I. 2374 and also under regulation 1(2) (b) of L.I. 2374.

Counsel for the Respondents therefore submits that the Applicants contention that they "were protected witnesses and were subjected to proceedings by an investigation panel under regulation 7 of L.I. 2374 cannot be sustainable in law. Counsel for the Respondents further argue that the 1st Respondent in dealing with the Applicants invoked Regulation 5 & 6 of L.I. 2374 of which the said regulation does not call for any caution and charged statement of the Applicants as same was only to prevent corruption and to solve corruption.

In order to determine the critical issue as to whether or not the Special Prosecutor i.e. the 1st Respondent acted within its mandate or jurisdiction to embark on its prevention of crime or corruption or to resolve crime or corruption under Regulation 5 and 6 of L.I. 2374. I would refer to the relevant provision, the said regulation 5 and 6 of L.I. 2374 as follows:-

“Preliminary inquiry or investigation

5(1) where the Special Prosecutor considers a complaint lodged with the office and determines that the complaint is within the mandate of the office of the Special Prosecutor or an authorized officer assign the complaint...

- a) *for a preliminary inquiry or investigation involving some measured review, a contact or observation activities in response to the complaint indicating the possibility of the commission of corruption or corruption related offence for purposes of detecting or preventing the commission of corruption or a corruption related offences; or*
- b) *for full investigation where the facts that an investigation may be conducted to prevent, solve or prosecute corruption or corruption-related offence.*

(2) A preliminary inquiry or investigation under (b) of subsection (1) shall be conducted with as little intrusion into the privacy of individuals as the need of the situation permits and shall be terminated when it becomes apparent that a full investigation is not necessary

Full investigations:

6. (1) The office may generally initiate an investigation into corruption or a corruption-related offence when facts or circumstances reasonable indicate that an investigation may be conducted to prevent or prosecute corruption or corruption-related offence.

- (2) Where the office decides to initiate a full investigation under sub regulation (1), the office shall invite for an interview
 - a) the complainant where necessary,
 - b) a representative of the body organization or person against whom the complaint is made; and
 - c) and other person considered necessary for the investigation.

- (3) A person appearing before the Special Prosecutor to respond to a complaint shall
- a) be informed of the particulars of the complaint
 - b) be afforded a full opportunity to respond to the complaint and
 - c) appear in person and may be accompanied by Counsel
- (4) The Office shall keep a record of the investigations”.

More importantly also, it is worth to awake all dosing minds of the object of the office of the Special Prosecutor as spelt out in Section 2 of Act 959 as follows:-

Objects of the office:

- 2) The object of the office is to
- a) investigate and prosecute special cases of alleged or suspected corruption and corruption-related offences;
 - b) recovers the proceed of corruption and corruption-related offence, and
 - c) take steps to prevent corruption.

How or the means by which the Special Prosecutor can achieve these objects itself that is the functions of the Special Prosecutor is also spelt out in Section 3(1) (a) (b) (c) (d) (e) (f) (g) & (h) (i) of Act 959 as follows:-

Functions of the office:

- 3(1) To achieve the objects, the office shall
- a) investigate and prosecute cases of an alleged or suspected corruption and corruption-related offences under the Public Procurement Act 2003 (Act 663).
 - b) Investigate and prosecute allegations of corruption and corruption-related offences under the Criminal Offences Act 1960 (Act 29) involving Public Officers, Politically exposed persons and persons in the private sector involved in the commission of the offence.

- c) Investigate and prosecute alleged or suspected corruption and corruption related offences involving Public Officers, politically exposed persons and persons in the private sector involved in the commission of the offence under any other relevant law.
- d) Recover and manage the proceeds of corruption.
- e) Disseminate information gathered in the course of investigation to competent authorities and other persons the office considers appropriate in connection with the offences specified in paragraphs (a) and (b).
- f) Co-operate and coordinate with competent authorities and other relevant local and international agencies in furtherance of this Act.
- g) Receive and investigate complaints from a person on a matter that involves or may involve corruption and corruption related offences.
- h) Receive and act on referrals of investigations of alleged corruption and corruption-related offence by Parliament, the Auditor-General's office, the Commission on Human Rights and Administrative Justice, the Economic and Organized Crime Office and any other public body and
- i) Performs any other functions connected with the object of the office.

It should be well noted that the object and how to achieve the objects of the Special Prosecutor all quoted Supra do not include a mandate impose on the Special Prosecutor to make **adverse findings** against persons who are subject of those investigation whether as witnesses or suspects and further published same in the domain of the media for the public to subject them to a Court of Public opinion.

This is exactly what the 1st Respondent had done in the instant case beyond its mandate to the Applicants.

In so doing the 1st Respondent constituted itself into a Court of competent jurisdiction, a Commission or Committee of Enquiry which can make adverse findings against those who appear before them.

It is amply clear by the provisions of Act 959 that the Special Prosecutor can investigate and upon such an investigation

- 1) prosecute
- 2) not to prosecute
- 3) prevent corruption
- (4) Recover the proceeds of corruption

The Special Prosecutor cannot however after its investigation constitute itself into a “Court of competent jurisdiction” or a “Commission of Enquiry” to make **adverse findings** against those who appear before it and go ahead to publish the said **adverse findings** in the media to enable the public to subject the Applicants to a trial of public opinion.

Since the Office of the Special Prosecutor is not a “Court of competent jurisdiction” or a “Commission of Enquiry”, **the adverse findings** it made against the Applicants after its investigation is not spelt out in its Act of creation that is the Office of the Special Prosecutor’s Act 2017 (Act 959).

The 1st Respondent therefore in making an **adverse findings** against the Applicants acted in excess or beyond its jurisdiction even if it involved Regulation 5 and 6 of L.I. 2374 in its said dealings.

I have already ruled that even if the 1st Respondent invoked Regulation 5 & 6 in dealing with the Applicants, it acted in excess of its jurisdiction.

Counsel for the 1st Respondent had argued that it invoked Regulation 5 & 6 of L.I. 2374 when it dealt with the Applicants in order to prevent the commission of corruption and not to prosecute. It would however be recalled that when the

complaint against the Applicants was made to the 1st Respondent the alleged crime according to the complainant was completed. It is therefore very clear that when the 1st Respondent directed the 2nd Respondent to investigate the Applicants the Respondents did not set out to prevent the commission of any alleged corruption but to investigate and prosecute.

This is because since the complaint lodged to the 1st Respondent indicated that the alleged corruption had already been committed then what crime again did the 1st Respondent set out to prevent its commission in the said investigation? In that sense there is no provisions in Regulations L.I. 2374 by which the investigation of the Applicants could have been brought except Regulation 7 of L.I. 2374. Same provides as follows:-

“Investigations panels

- 7(1) The office may, for the effective performance of its functions, constitute an investigation panel to investigate a complaint of alleged corruption or a corruption-related offence.
- 2) The investigation panel shall cause a designated investigating officer or an authorized officer to take a written investigation statement from a witness and a suspect including caution and charged statement to build a complete investigation docket.
- 3) A panel constituted under sub regulation (1) shall report on a matter the panel has investigated and make recommendations to the Special Prosecutor.
- 4) The Special Prosecutor shall consider the report and may
 - a) accept the recommendations
 - b) reject the recommendation
 - c) vary the recommendation, based on the evidence contained in the complete investigation docket or

- d) direct that further investigation be conducted under the direct supervision of the Special Prosecutor or an authorized officer nominated by the Special Prosecutor”

It is an undisputable fact on the records that when the Applicants appeared before the 2nd Respondent no charged or caution statements were taken from them.

The clear provisions of Regulation 7(1) & (2) of L.I. 2374 cited supra is unambiguous on the matter of the building of a complete docket which should mandatorily include the caution and charged statements of persons suspected of the commission of specified corruption or corruption-related offences.

The Applicants per their letters of invitation to the 1st Respondent’s office were invited to assist in an investigation as witnesses, consequently the Applicants became protected witnesses pursuant to Section 72(1) of Act 959.

Section 72(1) of Act 959 provides “protection of witness

72(1) The Special Prosecutor shall take necessary and reasonable steps to protect the safety and welfare of a witness”

It is therefore my considered view that in course of the investigation if the 1st Respondent had any reason to treat the Applicants as suspects, the 1st Respondent then ought to have taken a caution and charged statements from the Applicants.

It is my strong view that the 1st Respondent without having provided the Applicants the opportunity of being treated as suspects in the commission of any specified corruption or corruption-related offences by taking cautioned or charged statement for same, the 1st Respondent acted without mandate and violated the protection provided the Applicants as witnesses when the 1st Respondent made the alleged **adverse findings** against the Applicants.

This act of the 1st Respondent only amounted to a procedural impropriety which can also be considered as a breach of Natural Justice.

See the case of:-

Rep vrs High Court, Denu

Ex-parte Agbesi Awusu II (No.2)

Nyanyo Agboada - Interested Party

[2003-2004] SCGLR 907 SC at page 924 where Dr. Justice Date Bah JSC stated

“Natural Justice or procedural fairness demands not only that those affected by a decision should be given prior notice and opportunity to be heard (audi alteram partem rule) but also there should be an entitlement to an unbiased decision-maker ... Bias or real likelihood of bias is thus a ground for the invocation of certiorari independent of the grounds of error of law on the face of the records or excess jurisdiction”

Simply put, Natural justice means more than the right to be heard but also the right procedure to be adopted when being heard.

I firmly hold therefore that it was not open to the 1st Respondent to ignore the mandatory provisions of Section 2(a), 3 and 79 of Act 959 and Regulation 7 of L.I. 2374 to offer the Applicants the opportunity of being tried before a Court of law even if they were suspected of any corruption or corruption-related offences and purport rather to make **adverse findings** against the Applicants as if the 1st Respondent is a “Court of competent jurisdiction” or “Commission of Enquiry.”

As said earlier, the 1st Respondent could not have invoked Regulation 5 & 6 of L.I. 2374 to prevent the commission of corruption because the complaint made to them suggested that an alleged corruption had been committed which would have naturally not called for the prevention of same. The Office of the Special

Prosecutor's argument that they proceeded against the Applicants under Regulation 5 & 6 of L.I. 2374 can therefore only be an afterthought.

The Office of the Special Prosecutor even though had not yet charged the Applicants before any Court of competent jurisdiction. I am inclined to believe that they invoked Regulation 7 of L.I. 2374 in dealing with them. However in so doing they committed a procedural impropriety when the 2nd Respondent refused to take any caution or charged statement from any of the Applicants.

Procedural impropriety squarely comes under the Rules of Natural Justice which breach of same warrants the remedy of Judicial Review in the nature of certiorari.

Accordingly, and in the circumstances I invoke this Court's jurisdiction under Article 141 of the 1992 constitution, Section 16 of the court's Act 1993 (Act 459) and the Judicial Review powers of this Court and declare that:-

1. the 1st Respondent acted ultra vires its statutory mandate under Section 2(a) and (b) 3 and 79 of the office of the Special Prosecutor Act, 2017 (Act 959) and Regulation 7 of the office of the Special Prosecutor (operations) Regulations, 2018 (L.I. 2374) when it made adverse findings against the Applicants and published same in the electronic and print media in its Report Exhibited as Exhibit "OSP6"

NB: This declaration is limited to the adverse findings made against Applicants in the Report Exhibit "OSP6"

2. I declare that the 1st Respondent acted ultra vires its statutory mandate under Sections 2(a) and (b), 3, and 79 of Act 959 and Regulation 7 of L.I. 2374 when without establishing any suspected commission of any corruption and/or corruption-related offence(s) against the Applicants the 1st

Respondent proceeded to make decisions containing adverse findings against the Applicants.

3. I declare that the 1st Respondent acted vires its statutory mandate by making decisions containing adverse findings against the Applicants who became protected witnesses under Section 72 of Act 959, which is in breach of the fundamental rights to natural justice (in the very case a procedural impropriety against the Applicants which same Report was published for the trial of the Applicants in a Court of Public opinion instead of a Court of law.

b) I declare that upon a true and proper interpretation of Sections 2(a), 3 and 79 of the Office of the Special Prosecutor, Act 2017 (Act 959) and Regulations 5, 6, and 7 of the Office of the Special Prosecutor (Operations) Regulation, 2018 (L.I. 2374), the 1st Respondent had no mandate or jurisdiction to have converted the report and recommendation of the investigation panel submitted to the Special Prosecutor into a report in which it made adverse findings against the Applicants and published same in the electronic and print media for their trial by public opinion instead of in a Court of law.

NB: This declaration pertains to only the adverse findings made against the Applicants in the Office of the Special Prosecutor's Report Exhibit "105P6".

c) I declare that on a true and proper interpretation of Section 72 of the Office of the Special Prosecutors Act 2017 (Act 959) the 1st Respondent acted without authority or jurisdiction in making decisions containing adverse findings against the Applicants as protected witnesses when they had not been cautioned or charged with any specified suspected corruption and/or corruption-related offence(s) and causing same to be published in the electronic and print media:

- d) Arising from the aforementioned declaration, I bring up all portions of the O.S.P. Report Exhibit “OSP6” which made adverse findings against the Applicants namely, paragraphs 4.16, 4.17, 4.18, 4.19, 4.20, 4.21, 4.22, 4.25, 4.27, 4.29, 4.30, 4.31, 4.33, & 4.34 for the purpose of quashing and issue an Order of certiorari and quashed same since the 1st Respondent acted ultra vires its powers in its Report (Exhibit “OSP6”) in these paragraphs aforementioned.
- e) For acting ultra vires in its powers in the aforementioned paragraphs as stated in (6) nothing good can be built on the adverse findings made against the Applicants by the 1st Respondent in its Report Exhibit “OSP6” based upon the said adverse findings made against the Applicant by the 1st Respondent on its Report i.e. Exhibit OSP6”, I therefore issue an order of prohibition to prohibit the 1st Respondent from opening up any further investigation in respect of or based on the adverse findings made against the Applicants in its Report Exhibit “OSP6”.

The summary of it all is the objects of the Special Prosecutor as spelt out in Section 2(a) (b) (c) of Act 959 referred to supra and the functions of the office, that is how to achieve these object as specified in Section 3 (1) (a) (b) (c) (d) (e) (f) (g) (h) and (i) of Act 959 do not impose a mandate on the Special Prosecutor to make adverse findings against persons who are subject of its investigation irrespective of any of its provisions in its Regulations the office of the Special Prosecutor would invoke. The rules do not say so. For if the Special Prosecutor understands these rules to mean that it can make adverse findings against those who appear before it, then that would amount to the Special Prosecutor constituting itself into a “Court of Competent jurisdiction” or “Committee of Enquiry.”

If the Special Prosecutor keeps on to make adverse findings against those who appear before it and publish same then the Office of the Special Prosecutor

would be breaching the express provision of Article 19 of the 1992 constitution, that a person who had been accused of a Criminal charged would be presumed to be innocent until he is tried and found Guilty by a Court of competent jurisdiction or pleads Guilty to the charge.

The Special Prosecutor by making the said adverse findings against the Applicants and publishing the said adverse findings against the Applicants just constituted itself into a “Court of competent jurisdiction” and further found the Applicants Guilty.

I firmly hold that the office of the Special Prosecutor is not a “Court of competent jurisdiction” or a “Committee of Enquiry”. It could not therefore make adverse findings against the Applicants amounting to finding the Applicants Guilty and publish same.

The only instance that Act 959 mandates the 1st Respondent to make reports and make publication to the public is in pursuance of its investigatory and prosecutorial functions under section 3(3) of Act 959. Same provides:-

- 3(3) The Office shall, on a half yearly basis, publish the following information in at least two daily newspapers of National Circulation and on the website of the office
- a) the list of corruption cases investigated and prosecuted by the office and
 - b) the number of acquittals, convictions and cases pending in respect of the cases prosecuted under paragraph (a) and the value of proceeds recovered if any.

This Section 3(3) (a) (b) which mandates the Special Prosecutor to make a Report and publish same in the diaries had spelt out what Reports can be made. It clearly does not say that the Special Prosecutor should or can make a Report on those who appear before it and make adverse findings against them.

Section 3(3) (a) and (b) only mandates the Office of the Special Prosecutor to make Reports on corruption cases investigated and prosecuted.

The Office of the Special Prosecutor can further make Report on cases of acquittals, conviction, cases pending in respect of cases prosecuted and the value of proceeds recovered if any.

It is very clear from the provisions of Section 3(3) (a) & (b) that the Office of the Special Prosecutor cannot make adverse findings after its investigations and further publish same. The Office of the Special Prosecutor has no statutory mandate to do so except on the occasions mentioned in Section 3(3) (a) & (b) of Act 959. The Office of the Special Prosecutor is not an adjudicating body.

Unfortunately this is what the 1st Respondent had done against the Applicants. What the 1st Respondent had done cannot be brought within the purview of Section 3(3) (a), (b) of Act 959.

Thus the 1st Respondent had acted without mandate in dealing with the Applicants.

It is however noteworthy to mention here that “Labianca Group of Companies” was the main subject of investigation which Report resulted on Exhibit ‘OSP6’. During the said investigation ‘Labianca’ was directed to submit several documents to the office of the Special Prosecutor, other persons and bodies might have been interviewed. I am not privy to any of the interview or investigations done which resulted in the Report of Exhibit “OSP6” except that of the Applicants. I cannot therefore make any pronouncement on the Office of the Special Prosecutor’s Report in Exhibit “OSP6” except those aspects which touch on the Applicants.

After all, it is only these two Applicants in the present application who had sought for a relief against the Respondents before this Court.

I therefore restrain myself from making any pronouncements on the Office of the Special Prosecutor's Report Exhibit "OSP6" except the provisions of the Report that concerns the Applicants as mentioned supra.

In addition to the earlier declarations and orders made relating to the Applicants, I state that I abide by my earlier declarations and orders made supra and add that in the name and provisions of the 1992 constitution of Ghana, the act of creation of the office of the Special Prosecutor Act 959, and its relevant Regulations, the office of the Special Prosecutor is not a "Court of competent jurisdiction" or a "Committee of Enquiry" to have made adverse findings against the Applicants and went ahead to publish same on the electronic and print media.

The Office of the Special Prosecutor has no mandate to do so and has thus acted without jurisdiction or mandate, hence the declaration and orders made by this Court supra.

I award cost of GH¢10,000.00 in favour of the Applicants against the Respondents.

(SGD)
WILLIAM BOAMPONG
(JUSTICE OF THE HIGH COURT)

CERTIFIED TRUE COPY

REGISTRAR
HIGH COURT

5-12-2023

COUNSEL:

BOB SENYALAH ESQ, FOR THE APPLICANTS

KISSI AGYABENG ESQ, SPECIAL PROSECUTOR FOR THE
RESPONDENTS