

JOHN SETON, for himself and for his wife,
OLGA HAGE-SETON, Petitioners, v.
HON. ROBERT G. W. AZANGO,
Assigned Circuit Court Judge, Ninth Judicial Circuit,
and MADAM YOUWAH, Respondents.

PETITION FOR A WRIT OF PROHIBITION.

Decided September 17, 1971.

1. A court has no authority to enter a judgment or decree against anyone over whom it has no jurisdiction either by service of process or voluntary submission.

Without service of process upon petitioner and his wife, they were ordered by the circuit court to contribute to a minor's support. A petition was submitted for a writ of prohibition, to prevent service of a writ of arrest upon petitioners, which the lower court had ordered issued in the event of failure to comply with the order of support. The minor was the illegitimate child of the petitioner's wife's deceased father, and did not reside with them. *Petition was granted.*

Appearances not indicated.

PIERRE, C. J., presiding in chambers.

In this case, John Seton has complained that although there was no precept served on him to bring him under the jurisdiction of the Ninth Judicial Circuit Court, in Gbarnga, nor being a blood relation to his wife's brother, a minor child alleged to have been born out of wedlock to his wife's deceased father, yet Judge Robert Azango, assigned in the aforesaid Ninth Judicial Circuit Court, ruled that he be compelled to pay \$10.00 each month for this child's support until it reaches the age of seven years.

The petitioner alleges that this minor child does not live with him, nor as far as he knows was this child ever legitimized by his wife's father prior to his death. For this and other reasons which we do not think are relevant to these proceedings, petitioner has applied for prohibition to prevent the service of a writ of arrest against him, which the judge has ordered issued for his imprisonment, should he refuse to pay the aforesaid support.

In this case there are several issues raised, such as the absence of any evidence that petitioner was in any way legally obligated for this child's support. There is no record to show any legal ground upon which any court could compel the petitioner or his wife to support this child.

According to the respondent's return, the late S. G. Hage, putative father of the minor child, had, prior to his death, signed a stipulation with the child's mother for its support at the rate of \$10.00 a month. It is not stated or shown that the petitioner and his wife were parties to these stipulations, or that they knew any such document had been prepared and signed. Yet, the judge ruled that due to the sudden death of the child's putative father, John Seton, the petitioner, and his wife, also an illegitimate child of the late S. G. Hage, should support the child.

The issue before us is whether or not the Judge had any jurisdiction over the petitioner and his wife, in view of the circumstances related hereinabove. Petitioner filed an answering affidavit in which he averred the facts set forth above, as well as denying his wife was the administratrix of her father's estate or that there was an estate, all of which opposing counsel conceded.

In *Tubman v. Murdoch*, 4 LLR 179 (1934), the Supreme Court set forth guidelines to determine jurisdiction of a court over persons before it.

"1. A judgment concludes only parties to the suit, and those in privity of relation with them.

"2. To every suit there are two necessary parties; viz.: the parties plaintiff and parties defendant.

"3. Parties plaintiff are they who bring the suit and by their voluntary appearance and their prayer for redress or relief, thereby submit to the jurisdiction of the court. Parties defendant are those who have been served with process commanding their appearance or who, having notice that process has been issued or ordered issued, voluntarily appear and submit to the jurisdiction of the court.

"4. A court has no authority to enter a judgment or decree against anyone over whom it has no jurisdiction either by service of process or by his voluntary appearance and submission to the court's jurisdiction."

In this case, Judge Azango ruled against petitioner and his wife, who were not parties to any case pending before the court, and who had not been served with process to appear and answer in litigation.

In view of the foregoing, the petition is hereby granted and the peremptory writ ordered issued. The Clerk of this Court is to send a mandate to the judge in the Ninth Judicial Circuit, commanding him to desist from all further action against the petitioner and his wife in the proceedings out of which this petition grew. Costs against respondents.

Petition granted.