

**IN THE HIGH COURT OF SIERRA LEONE
(PROBATE JURISDICTION)**

**IN THE MATTER OF THE ESTATE OF HAJA DANKAY KABIA ALIAS HAJA
TIGIKANKAY KABIA (DECEASED) INTESTATE
AND**

**IN THE MATTER OF THE ADMINISTRATION OF ESTATE ACT CAP 45 OF
THE LAWS OF SIERRA LEONE**

BEFORE THE HON. JUSTICE JON KAMANDA J.A.

A. D. KONOYIMA with him C. F. EDWARDS AND M. A. B. SESAY for the
ADMINISTRATOR AND REGISTRAR-GENERAL
A. F. SERRY-KAMAL for FAMILY OF HAJA DANKAY KABIA AND
BENEFICIARIES OF THE DECEASED

JUDGMENT DELIVERED BY HON. JUSTICE JON KAMANDA J. A. ON THE
2nd DAY OF JUNE, 2006

The Acting Administrator and Registrar-General ('The Petitioner') has brought before this court a petition dated 21st day of March 2006 urging me to grant him Letters of Administration to enable him administer the estate of Haja Dankay Kabia who died intestate in Freetown on the 30th day of October, 1999. The Petition is supported by the affidavit of Aiah D. Konoyima, Acting Administrator-General sworn to in Freetown on the 21st Day of March, 2006. He thereto has exhibited a number of documents:

- ADK 1 - copy of death certificate of Haja Dankay Kabia dated 30th October 1999
- ADK 2 - copy of the notice of citation published in the Sierra Leone Gazette dated 7th day of July 2005
- ADK 3 - copy of the notice of citation published in the Sierra Leone Gazette dated 14th day of July 2005
- ADK 4 - copy of the notice of citation published in the Sierra Leone Gazette dated 21st day of July 2005
- ADK 5 - copy of the notice of citation published in the New Citizen Newspaper dated 5th day of July 2005
- ADK 6 - copy of the judgment of the Court of Appeal dated 3rd March 2005
- ADK 7 - copy of the judgment of the High Court dated 14th May 2001

It is clear to me that the Petitioner's claim is anchored firstly on the High Court judgment of the Hon. Justice J.E. Massally J., that is exhibit ADK7. This judgment was delivered in an action brought by the following persons : Alhaji Kabba Kabia, Alpha Sahid Kabia, Alhaji Abdulai Kamara and Bob Amara Bangura as beneficiaries and next of kin of the estate of Haja Dankay Kabia (deceased) intestate. Amongst the reliefs sought was a prayer for the grant of Letters of Administration if the estate of

the said Haja Dankay Kabia. For reasons therein stated, the learned trial judge refused to make the grant. He went on to quote the provisions of section 9 (1) of the Administration of Estates Act, Cap 45 of the Laws of Sierra Leone : in summary that the estate of every person dying intestate shall devolve upon the Official Administrator until divested from him by persons to whom letters of administration have been granted. There being no evidence of such letters of administration having been granted to anyone, the learned trial judge went on to hold that the intestate estate shall so devolve in the Official Administrator, now the Administrator and Registrar-General.

On appeal by the plaintiffs, the Court of Appeal upheld the judgment of the High Court (see exhibit ADK6). The petitioner herein is even more strongly relying on this judgment of the Court of Appeal in his claim for letters of administration.

Mr. Serry-Kamal who was counsel for the plaintiffs in the High Court, and now for the same persons in this court, entered a conditional appearance on the 3rd day of April 2006 and also on behalf of "all the other beneficiaries of the estate of Haja Dankay Kabia (deceased) intestate. He filed an affidavit sworn to in Freetown on 6th April 2006 on their behalf and exhibited the following documents:

AFSK 1 - Letters of Administration pendent lite dated 6th August 2001 and granted to Alpha Sahid Kabia in respect of the estate now in question

AFSK 2 - Caveat filed by Serry-Kamal & Co. dated 14th December 2005 on behalf of Alhaji Kabia, Alpha Sahid Kabia and Bob Amara Bangura

AFSK 3 - copy of an affidavit sworn to by Abdul Franklyn Serry-Kamal in Freetown on 14th June 2005. (Let me note here that Mr. Serry-Kamal deposed in his affidavit of 6th April 2006 that AFSK 3 was copy of an appearance to the citation published by the Administrator and Registrar-General).

AFSK 4 - copy of a notice of withdrawal of petition by the Administrator and Registrar-General.

AFSK5¹ and AFSK5² - copies of memorandum and notice of appearance by the interested parties.

To another affidavit sworn to by Abdul Franklyn Serry-Kamal in Freetown on 18th day of May 2006, are two documents:

AFSK 6 and AFSK7 - being respectively names of family members of the maternal side and paternal side of the deceased intestate's family.

exhibited

Mr. Serry-Kamal has in his argument raised a number of legal and procedural issues, for example, the existence of a caveat (AFSK2), the existence of a grant (AFSK1), the issue of a family arrangement (AFSK6 and AFSK7). These are matters which I hold, with respect, I cannot consider since it lies outside my powers, sitting here as a High Court judge to rehear a matter which has earlier been adjudicated upon by another High Court of equal, comparable and competent jurisdiction. Mr Serry-Kamal is urging me to overturn the decision of that High Court, upheld by the Court of Appeal, to grant letters of administration to the very four plaintiffs who took this matter to the High Court and were refused a grant. If I heard this matter on its merits I would be constituting this court

into a court of appeal which it is not. Further, this court is bound by the judgment of the Court of Appeal which in this instance has refused to grant letters of administration to these four persons, not to mention a grant to the other un-named beneficiaries on whose behalf Mr Serry-Kamal appears.

This having been said, it only remains for me to now consider whether the petitioner has done all he should to warrant a grant by this court. I answer in the affirmative. I therefore grant unto the petitioner letters of administration to empower him to administer the estate of Haja Dankay Kabia alias Haja Tigidankay Kabia (deceased) intestate, according to law. The petition is accordingly granted.

John D. S.
30th May 2006.