C.C 154/20 2020 B. N0.19

In the High Court of Sierra Leone

(Land and Property Division)

Between:

Thomas Johnard Barnett - 1st Plaintiff/Applicant

5 Decker Drive,

Off Regent Road, Lumley

Freetown

Marie Jilo Barnett - 2nd Plaintiff/Applicant

5 Decker Drive,

Off Regent Road, Lumley

Freetown

And

Mrs. Fatmata Thullah - 1st Defendant/Respondent

5 College Road,

Congo Cross

Freetown

Brookfields

Freetown

The Administrator and

Registrar-General - 2nd Defendant/Respondent

Walpole Street

Roxy Building

Freetown

Counsel: K. O. Foh Esq. for the Plaintiffs/Applicants

M. P. Fofanah Esq. for the Defendants/Respondents

Ruling on an Application for an Interlocutory Injunction and Cost, Delivered by the Hon. Justice Dr. Abou B.M. Binneh-Kamara, on Tuesday, 8th November 2022.

1.1 Background and Context

This is a ruling, contingent on an application for an interim injunction, interlocutory injunction and cost. This application was originally made by K. A. Foh Esq., Counsel for the Plaintiffs/Applicants (hereinafter referred to as Counsel for the Applicants), before this Honourable Court, pursuant to Order 35 Rules (1) and (2) of the High Court Rules, Constitutional Instrument N0. 8 of 2007 (hereinafter referred to as The HCR 2007). The notice of motion, underpinning the application is strengthened by the affidavit of one Marie Jilo Barnett, of N0.5 Decker Drive, Regent Road, Lumley, Freetown, in the Western Area of the Republic of Sierra Leone, sworn to and dated 22nd June 2020. Contrariwise, on the 19th of October 2020, Counsel for the Defendants/Respondents, M. P Fofanah Esq. (hereinafter referred to as Counsel for the Respondents), sworn to an affidavit, contravening the contents of the application's supporting affidavit in its entirety.

Meanwhile, on the 2nd of November 2020, Counsel for the Applicants, deponed to a supplemental affidavit, stating that the Applicants thereby undertook, to make the requisite undertaking to pay damages to the Respondents {see Order 35 Rule 9 of The HCR 2007}, should it turn out that at the end of the trial, this Honourable Court adjudge that the injunction should not have been granted; if at all it deems it fit to grant it at this stage. Subsequently, the same Counsel filed an affidavit in reply on the 22nd of October 2020, negating the contents of the opposing affidavit,

sworn to by Counsel for the Applicants and dated the 19th of October 2020. Furthermore, between the 12th of October and the 7th of December 2020, this Honourable Court was moved on the application to completion; Counsel on the other side responded and the reply to the opposing response, was as well made. Having presented the background and context of the application, I will now proceed to present and subsequently unpick the arguments of both Counsel in tandem with the respective provisions of law they have relied on, to convince the Court to grant or not to grant the application.

1.2 <u>Submissions of Counsel for the Applicant</u>

The Applicants' Counsel made the following submissions, to persuade this Honourable Court, to make an interlocutory injunctive order, restraining the Respondent, his servants, agents, privies or howsoever called from entering upon, remaining on, leasing, renting, selling, or trespassing on, the realty (the subject matter of this litigation):

1. The affidavit contains fourteen exhibits. Exhibit MJB1 is the writ of summons, commencing this action. Exhibit MJB 2 is a statutory declaration, establishing the very possessory title, upon which the Applicants' claims are consequent. Exhibit MJB3 is the memorandum of appearance and notice of appearance entered. Exhibits MJB 4 and 5 are the defence and counterclaim and the reply to the defence and claim. Exhibit MJB 6 and 7 are the sales agreement between the 1st Respondent and one Mr. Mohamed Tapia Sesay, (hereinafter referred to as Mr. Sesay), who happened to be the Defendant in the action brought against him by the 1st Defendant (see Exhibit MJB7). Exhibit MJB8 is Mr. Sesay's death certificate. Exhibit MJB9 is an application

to the High Court of Justice, appointing the Administrator and Registrar-General to replace the deceased Mr. Sesay in that action. Exhibit MJB 10 is the Court order sanctioning the Administrator and Registrar-General's appointment. Exhibits MJB 11 and 12 are a notice of motion to enter a judgment in default of defence, an order of specific performance, compelling the defendant to execute a conveyance, transferring the realty (the subject matter of this litigation) measuring 1.75 town lots to the plaintiff etc.; the affidavit supporting the said motion; and the Court's order, consequent on the application. Exhibit JMB 13 is a letter written by Counsel for the Applicants, complaining that the Respondents have trespassed on the Applicants' property and that the former were given seven days' notice to quit; or risk being prosecuted.

2. That the Applicants have always been the owners of the fee simple absolute in possession of the subject matter of this action. That they are in possession of their registered title deed (a statutory declaration) in respect of the realty as delineated on survey plan marked LS 591/95 measuring 0.3279 acres, attached to the statutory declaration dated 14th November 1995 and registered as N0. 115/95 at Page 103 in Volume 40 of the Record Books of Statutory Declaration kept in the Office of the Administrator and Registrar-General.
3. That the 1st Respondent alleged to have acquired the realty from one Mr. Sesay (deceased), who was not the owner, based on a fictitious agreement to which the owners were not part of. That the 1st Respondent surreptitiously issued a writ of summons, dated the 16th of December 2016, for an order of specific performance, compelling the said Mr. Sesay to execute a deed of

conveyance, transferring ownership of the Applicants' land to her and in the event of a default, the Master and Registrar of the High Court of Sierra Leone, to execute the deed of conveyance.

4. That the Defendant in that action (Mr. Sesay) could not defend the action brought against him by the 1st Respondent as he was no longer alive to do so. That the 1st Respondent filed a notice of motion, dated the 23rd of October 2022, for judgment to be entered in her favour and contingent on that application, an order dated the 21st January2020, was granted as prayed on the 1st Respondent's behalf.
5. That when the Applicants got their solicitor to write to the illegal occupants of the realty, notifying them about the consequences of their illegal occupations and the need to lawfully evict them (in a strongly warded correspondence, dated the 17th of March 2020), the 1st Respondent, consequently instructed her solicitor to respond to the said correspondence and this was how the Applicants got to know that their realty has since been the subject of litigation.
6. That the 1st Respondent indeed has knowledge about the fact that the realty is owned by the Applicants; and they have since been in possession of it as long as their registered title deed can depict. That the Respondents have arranged to fraudulently deprive the Applicants of their hard earned property.
7. That unless restrained by this Honourable Court, the Respondents are by virtue of the said unmeritorious, frivolous and vexatious court order of the 21st January2020, determined to continue to trespass and lay claims and/or

meddle with the Applicants' realty. In fact, the Respondents have deprived the Applicants of access to and quiet enjoyment of their real property.

8. Therefore, it will serve the interests of fairness and justice, should this Honourable Court grant the orders as prayed.

1.3 <u>Submissions of Counsel for the Respondent</u>

Counsel for the Respondent thus adduced the following arguments in justification of why the injunctive order as prayed, should not be granted:

1. The Applicants seek to injunct the 1st Respondent and her tenants and caretakers, who are already occupying various structures and houses on the disputed land. That the 1st Respondent has already filed a defence and counterclaim to the Applicants' statement of claim, vehemently denying the claims and allegations of trespass. The counterclaim discloses a Judgment recently delivered by the Hon. Mr. Justice Komba Kamanda J. (as he then was), sitting in the High Court of Justice of Sierra Leone in favour of the 1st Respondent for the piece of land now claimed by the Applicants.
2. That the 1st Respondent's adjudged piece of land is about one and a half town lot and that it is occupied by more than twenty people including tenants, caretakers and their dependants. Thus, awarding an injunction in favour of the Applicants will cause undue hardship to them.
3. That the 1st Respondent's predecessor- in- title, the Late Mr. Sesay had occupied the land for many years, together with his dependants and tenants and there had not been any adverse claim by the current Applicants. Therefore, the Applicants ought to be stopped from claiming 1st Respondent's bona fide possession and entitlement.

Nevertheless, having presented the submissions of both Counsel, I will now proceed to analyse the law on injunction as applied by the Courts in the Commonwealth jurisdiction and in Sierra Leone in particular.

1.4 <u>Analytical Exposition of the Law on Injunction</u>

The jurisprudence on injunctive reliefs, has continued to evolve, with the myriad of case law that has emerged in civil litigations (in the commonwealth jurisdiction). This state of affair has generated a very reach literature on the equitable remedy of injunction in our jurisdiction. Injunctive remedies are so versatile that they can be invoked at any stage, even before, during and after a trial. At the pre-trial and trial stages, they can be either interim or interlocutory, but they can be made perpetual at the post-rial stage. They are made perpetual at this later stage because the courts would have heard the evidence and would have determined the outcomes of the litigations. Injunctive reliefs are thus an effective mechanism, pursuant to which the courts can enforce the rights and liberties of deserving litigants.

Thus, the application that is to be determined concerns the grant or refusal of an interlocutory injunctive relief. Therefore, it will amount to an exercise in futility, should this analysis spread its tentacles, to incorporating any legal authority on perpetual injunction. Meanwhile, it should be noted that interlocutory orders on injunctions are thus discretionary and temporary (see Paragraph 29/L/3 at page 565 of the English Annual Practice of 1999). That is, courts of competent jurisdiction, can exercise their discretion to grant or not to grant them, via statutes or statutory instruments, in the interest of justice and fairness. Moreover, such orders will never subsist beyond the trial period. Essentially, the position of the law

regarding the circumstances in which an injunction should or should not be granted is well articulated in the numerous legal authorities that dovetail with the principal sources of law in Sierra Leone. The shared body of knowledge in this area of the law is embedded in statutes and a host of decided cases in and out of our jurisdiction.

A trenchant perusal and analysis of the cases in this province of the civil law, flags up the inevitable precedents in the following cases for immediate considerations: American Cyanamid Co. Ltd. **v.** Ethicon Ltd. (1975) 1 All ER, Fellowes and another **v.** Fisher (1975) C A 829-843, Hussein Abess Musa (for and on behalf of the beneficiaries) **v.** Musa Abess Mousa and Others (C.C 745/06 S 2006 M N0. 3) {2007} SLHC (22nd February 2007). Watfa **v.** Barrie Civ. App. 26/2005 (Unreported), Chambers **v.** Kamara (CC 798/ 06) (2009) SLCH 7 (13th February 2009) (Unreported) and Mrs. Margaret Cozier **v** Ibrahim Kamara and Others CC. 165/18 2018 C. 06 (22nd January 2020), PC Dr. Alpha Mansaray Sheriff the II **v.** Attorney-General and Minister of Justice and Others (Misc. App. 6/2011) and Alhaji Samuel Sam-Sumana **v.** The Attorney General and Minister of Justice of Sierra Leone and Victor Bockarie Foh (S.C 2015).

These cases are quite clear on the guiding principles that the courts have developed on injunction. Meanwhile, the American Cyanamid case (the only foreign case law alluded to by Counsel for the Applicant), reflects the most salient precedent that has undoubtedly guided the Superior Courts of Judicature in the Commonwealth jurisdiction in handing down their decisions on decided cases on injunction. In tandem with Lord Diplock's reasoning, the other Law Lords (of the House of Lords) that presided over this case (Lords Viscount Dilhorne, Cross of Chelsea, Salmon and

Edmund Davies, held that to determine whether a court of competent jurisdiction should or should not grant an injunction, the following threshold must be met:

1. The Court must determine whether there is a serious question of law to be tried. And at this stage, it would not be necessary for the Applicant to establish a prima facie case, when the application is made, but the claim (upon which the application is based) must neither be frivolous, nor vexatious.
2. The Court must also establish the adequacy of damages; as a remedy, should it turn out at the end of the trial that, the injunction (if granted) should not have been granted.
3. The Court must finally establish whether the balance of convenience is in maintaining the status quo or not.

These criteria have clearly influenced the development of the law on injunction in English jurisprudence. Thus, the American Cyanamid case is a well cited authority in innumerable applications for injunctive reliefs in the United Kingdom, the Caribbean and Africa. Meanwhile, shortly after the monumental decision in that locus classicus, Lords Denning, Browne and Pennycuick, on the 15th, 16th of April and 2nd of May, 1975, replicated the criteria for the grant or refuse of an injunction, established in American Cyanamid Co. Ltd. **v.** Ethicon Ltd. (1975) 1 All ER in the other celebrated case of Fellowes and another **v.** Fisher (1975) C A 829-843; and refused to grant the interlocutory injunction, which was the principal thrust of the appeal in that case.

Moreover, the valence of the precedent of the latter case, which should be given prominence and salience in this ruling, is rooted in how the Court of Appeal of

England, dealt with the thornily controversial issue of balance of convenience in the determination of whether an injunction should or should not be granted.

Significantly, the issues that are cognate with the relative strength of each party's case and the circumstances in which their relative strength should be considered, are the main concerns, which the Court of Appeal of England, made quite prominent in the assessment of whether the Superior Court of Judicature, should or should not grant an injunction. Analytically, in our jurisdiction, in the celebrated case of Watfa **v.** Barrie (referenced above); the threshold for the grant of an injunction as pontificated in the American Cyanamid Case, was incisively reviewed, but the application for the injunctive order, was accordingly repudiated. More importantly, the Hon. Justice A. B. Halloway's decision in Hussein Abess Musa (for and on behalf of the beneficiaries) **v.** Musa Abess Mousa and Others (C.C 745/06 S 2006 M N0. 3) {2007} SLHC (22nd February 2007), was made in tandem with the decision in Watfa **v.** Barrie Civ. App. 26/2005 (Unreported).

Most importantly, in Alhaji Samuel Sam-Sumana **v.** The Attorney General and Minister of Justice of Sierra Leone and Victor Bockarie Foh (S.C 2015), the Hon. Justices V. V. Thomas, C. J., N. C. Browne-Marke, J. S. C., E. E. Roberts, J. S. C., V. M. Solomon, J. S. C., and P. O. Hamilton J. S. C., applied the same test in the American Cyanamid case, to refuse the injunctive interlocutory order as prayed in that constitutional case. Nonetheless, The Hon. Justice Desmond B. Edwards J. (as he then was) applied the same criteria in the American Cyanamid case to the facts in Chambers **v.** Kamara (referenced above), to grant an interlocutory injunctive order in favour of the Applicant. Furthermore, The Hon. Dr. Justice A. Binneh-Kamara, J. in Mrs. Margaret Cozier **v.** Ibrahim Kamara (referenced above), granted the

application for an interlocutory injunction; after an introspective reflection of the threshold established for the ward of such orders in both the American Cyanamid and Fellowes cases.

Essentially, the trend of thought that is discernible in the analysis, leading to the decisions in the above cases, is rationalized in the HCR, 2007. This argument strengthens the quintessential fact that interlocutory injunctive orders are discretionary and temporary. Therefore, it is the peculiarity of the circumstances of any case, that would determine whether a reasonable tribunal of fact, should or should not grant such injunctive reliefs. Thus, Order 35 Rule 1 of the HCR 2007, states that:

> 'The Court may grant an injunction by an interlocutory order in all cases in which it appears to the Court to be just or convenient to do so and the order may be made either unconditionally or upon such terms and conditions as the Court considers just'.

The other essential point which must be made very clear in this analysis, leading to the determination of the application, is cognate with the conditionality of the Applicant seeking for an injunction to make the requisite undertaking, to pay damages to the other side, should it turn out at the end of the trial that, the interlocutory injunction, ought not to have been awarded at all. Thus, Order 35 Rule 9 of the HCR 2007, makes the undertaking for damages a clearly mandatory conditionality, for the award of an interlocutory injunction to the Applicant.

1.5 <u>The Critical Context: A Contextual Analysis of the American Cyanamid's Threshold in Relation to the Application's Facts and Facts-in-Issue</u>

This critical context, examines whether the application meets the threshold, set out in the American Cyanamid's case as particularly expounded and applied in the English and Sierra Leonean authorities of Fellowes and another **v.** Fisher (1975) C A 829-843 and Alhaji Samuel Sam-Sumana **v.** The Attorney General and Minister of Justice of Sierra Leone and Victor Bockarie Foh (S.C 2015). The first component of the threshold is to determine whether there is a serious question of law to be tried. Thus, on this point, the Hon. Justice V. V. Thomas C. J., made the following laconic, but interesting comment in the foregoing Supreme Court of Sierra Leone: 'If there is no serious question of law to be tried, this is virtually the end of the matter in an application for an injunctive relief'.

The application's twenty-one paragraphs bolstering affidavit, contains a plethora of facts and facts-in-issue, resonating with a prima facie case, which needs not be established at this stage. So, I will only dilate on the relevance of most of those facts and facts-in-issue, in the determination of this application. Thus, the principal thrust of the Applicants' Counsel's submission, that the Applicants' are the owner of the realty of this litigation, by virtue of the very statutory declaration, alluded to in 1.2 is categorically debunked by the opposing affidavit thereto. Meanwhile, in 1.3 above, the Respondent's Counsel argues that the documents, depicted as Exhibits MJB 7, 9, 10, 11 and 12, established the legally sanctified processes that culminated in the Order of the High Court of Justice, conferring ownership of the land on the 1st Respondent. Thus, my examination of the 1st Respondent's supporting documents, establishes that the credibility of the processes,

culminating in the Hon. Mr. Justice Kamanda's order of the 21st January 2020, can at least be enquired into for purposes of setting them aside or appeal, but they cannot be faulted by any superior Court of competent jurisdiction, because (as a matter of strictissima juris), the proceedings that resulted in that order were facilitated in accordance with the provisions of The HCR 2007. A writ of summons was issued in respect of some remedies, for which action should obviously be commenced by a writ, against a defendant that had reneged in complying with the terms and conditions binding him under an agreement that he signed, which was subsequently registered with the Office of the Administrator and Registrar-General, at Walpole Street, Freetown in the Western Area of the Republic of Sierra Leone.

The claims embedded in that writ dated 16th December 2016 are specific performance, an order that in the event of default of the Defendant to execute the said deed within one week of the order, the Master and Registrar of the High of Sierra Leone do execute the Deed of Conveyance aforesaid in favour of the Plaintiff; and an injunction restraining the Defendant whether by himself, his heirs, agents, servants, relations and/or privies from offering for sale, selling or in any way disposing of the said piece of land situate, lying and being off Regent Road (also known as N0.29 Decker Drive), Lumley, Freetown aforesaid to any person other than the Plaintiff herein (see Exhibit MJB7). The foregoing claims are craftily drafted, leaving no room to get the defendant in that action not to comply. And the said writ clearly complied with the provisions of Order 6 of The HCR 2007. So, what is suspicious and/or surreptitious about that writ?

Why should the Applicants' Counsel say it was surreptitiously issued? Can the Office of the Master and Registrar of the High Court of Sierra Leone, surreptitiously issue writ of summonses? The affidavit in support also contains this dangerous statement in Paragraph 17:

> 'That unless restrained by this Honourable Court, *the Respondents are by virtue of the said unmeritorious, frivolous and vexatious court order of the 21st of January 2020 {My emphasis in italics},* determined to continue to trespass and lay claims and/or meddle with the Applicants' realty. In fact, the Respondents have deprived the Applicants of access to and quiet enjoyment of their real property'.

It is really infradignitatem of this Honourable Court for a legal practitioner of any standing to file such an insulting affidavit, containing such a frivolous, vexatious, scandalous and irresponsible statement, against the administration of justice. Therefore, pursuant to this Honourable Court's jurisdiction, manifested in Order 21 Rule 17 of The HCR 2007, the shocking and outrageous Paragraphs 8 and 17 of the said affidavit are hereby expurgated from the Court's records. This court can even invoke its powers in Order 51 of The HCR 2007, for contempt against the Applicants' Counsel and the deponent of that affidavit for making such a contemptuous and scurrilous statement. However, the writ was served on Mr. Sesay, consonant with the rules, but he chose not to enter appearance, pursuant to Order 12 Rule 1 of The HCR 2007. Neither did he file any defence and counterclaim. This, as well, amounted to a clear violation of the rules.

Unfortunately, Mr. Sesay died on the 6th of February 2017 (see Exhibit MJB 8). The peculiarity of these facts warranted Counsel for the 1st Respondent to certainly

invoke the provisions in Order 18 Rules 7 and 8 of The HCR 2007 and Section 9 (1) of the Administration of Estates Act, Cap. 45 of the Laws of Sierra Leone 1960, for the Court to grant an order, appointing the Administrator and Registrar-General, to replace the deceased Defendant in that action. The application was procedurally and rightly made by a notice of motion and the apposite supporting affidavit thereof (see Exhibit MJB 9-10). Thus, the Hon. Mr. Justice Kamanda, in his wisdom, granted the application and made an order to that effect (see Exhibit MJB11). Consequent on this order and the fact that the deceased Defendant had neither entered an appearance; nor had he filed any defence and counterclaim, the 1st Respondent's Counsel, went ahead, and accordingly invoked the provisions in Order 13 Rules 1, 5 (1) and 6 for a judgment in default of appearance or alternatively, a Judgment in default of defence, pursuant to Order 22 Rules 3, 5 and 7 of The HCR 2007.

Be that as it may, it is clear from the above analysis, that the default Judgment of the 21st of January 2020, was regularly obtained, because the rules of procedure were strictly complied with. The position of the law is definite that when one proceeds on default, the rules must be strictly complied with as a matter of principle. This is what Buckley, L. J. had to say in Hamp-Adams **v.** Hall (1911) 2 K.B 94, on this rule of law: '… where a plaintiff proceeds by default every step in the proceedings must strictly comply with the rules; that is a matter of strictissima juris'. This position of the law was also echoed by Romer J. in Alexander Korda Film Production Ltd. **v.** Columbia Pictures (1946) 2 All E. R. 424., and by Kinsley J. in Yemen Company Limited **v.** Wilkins (1950-1956) ALRS S.L Series (Civil Case N0. 193/54) pages 377- 388 and in SLOF **v.** P.B. Pyne-Bailey (SLCS) 1.

Nevertheless, instead of dubbing the proceedings that culminated in the default Judgment of 21st January 2020, against Mr. Sesay as surreptitious, unmeritorious, scandalous and vexatious; it would have been reasonable for the Applicants' Counsel to set it aside on terms (not ex debito justitiae), because it was not irregularly obtained. It should be noted that, every default judgment, whether it is regularly or irregularly obtained, can be set aside as a matter of right or on terms, because such judgments are predicated on procedural as opposed to substantive justice. And the Courts are always willing to set default judgments aside as a way of giving credence to the constitutional principle of audi alteram partem (here the other side), as a fundamental doctrine of natural justice.

As it stood, the Applicants' Counsel had the opportunity to set the said Judgment aside, because he got to know about it as early as the 25th of March 2020. And he got the writ of summons, commencing this action, to be issued on the 2nd of April 2020. Nevertheless, instead of condemning a regular court order, it would have been reasonable enough for the Applicants' Counsel, to have come into the matter brought by the 1st Respondent, against Mr. Sesay, as an interested party. The Court as an arbiter of justice, would have granted an application seeking for the Plaintiffs in this action to be made interested parties (intervenors) in that action; and again, in the interest of fairness, it would have set aside the Judgment of 21st January 2017. That would have given the opportunity to the said Plaintiffs to present their case by filling their defence and counterclaim, based on the subsisting title deed Exhibit (MJB 2) which is exhibited in the supporting affidavit for an interlocutory injunction, which this Honourable Court determine.

However, the foregoing analysis clearly points to the fact that the Plaintiffs, must have averred in their statement of claims that they are the owners of the fee simple absolute in possession of the realty in question (see Exhibit MJB 1 and the notice of motion of 22nd June 2020). And it is absolutely clear that the 1st Respondent is equally laying claims to ownership of the same realty, as a result of the sale agreement between Mr. Sesay and her, the conveyance executed by the Master and Registrar of the High Court of Sierra Leone, and the Court order pursuant to which that conveyance was prepared and executed. These facts are reflective of the position that as it stands, there is a serious question of law to be tried; as both the Plaintiffs and 1st Respondents, are claiming ownership of the same realty for which this matter is in court.

This fact manifestly dovetails with the very first criterion for injunction, established in the American Cyanamid case; and enunciated by V.V. Thomas C. J. in the Alhaji Samuel Sam-Sumana **v.** The Attorney-General and Minister of Justice and Victor Bockarie Foh (S.C 2015); regarding the point that the Court is bound to determine whether there is a serious question of law to be tried. The Court of Appeal of England went further to make an addendum to the first criterion, that it would not be necessary for the Applicant to establish a prima facie case, when the application is made, but the claim (upon which the application is based) must neither be frivolous, nor vexatious. Thus, it can be seen that this Honourable Court has not required Counsel for the Applicants, to establish any prima facie case, but an examination of the application's bolstering affidavit, depicts that the application is neither frivolous nor vexatious, even though the said affidavit contained very scurrilous and dangerous contents in Paragraphs 8 and 17, which have accordingly been expunged from the records.

The second criterion is that the Court must also establish the adequacy of damages; as a remedy, should it turn out at the end of the trial that, the injunction (if granted) should not have been granted. The significance of this paraphernalia to the granting or refusal of an injunction in the context of the instant application is that 1st Respondent's tenants, depandants and caretakers, are in occupation of the land on her authority. And that the evidence adduced in the affidavit in opposition, which is not clearly contradicted is that the said persons have lived on the land for a considerable period, though the affidavit does not really show for how long they have lived on the land. On the strength of this uncontroverted evidence, this Honourable Court herby holds that damages in the instant case would not be an adequate remedy, should it turn out at the end of the trial that, the injunction (if granted) should not have been granted.

Finally, on the criterion of whether the balance of convenience is in maintaining the status quo or not, this Honourable Court further holds that indeed the balance of convenience has to be tilted in maintaining the status quo. This point is evidentially compounded by the fact that the authority on which the 1st Respondent's tenants, caretakers and defendants, have since been residing on the land, is rooted in and sanctioned by both the Court order of the Hon. Mr. Justice Kamanda and the very conveyance, which was executed by the Master and Registrar of the High Court of Sierra Leone. Thus, the sanctity of courts' orders are upheld until such orders are overturned by a superior court in the judicial hierarchy.

Should this Honourable Court now hold that the application for an injunction has met this third criterion (by granting the order as prayed), it would make nonsense and a mockery of the administration of justice. However, the validity of the 1st

Respondent's conveyance and the registered statutory declaration of the Applicants, when balanced-off, skewed this analysis to the conclusion that it is rationally expedient for the status quo to be maintained as this matter stands. Therefore, since Counsel for the Applicants, succeeded in convincing the this Honourable Court that there is a serious question of law to be tried, but could not prove the adequacy of damages; as a remedy, should it turn out at the end of the trial that, the injunction (if granted) should not have been granted and that the balance of convenience lies in maintaining the status quo, I will punctiliously hold that the application, does not meet the threshold for the award of an injunction; and it is hereby denied. The cost of the application shall be cost in the cause. I so order.

The Hon. Justice Dr. Abou B. M. Binneh-Kamara, J.

Justice of Sierra Leone's Superior Court of Judicature.