

C. C 93/13 2013 C. NO. 13

In the High Court of Sierra Leone

(Land and Property Division)

BETWEEN:

Mrs. Kainda Wray -

Plaintiff/Applicant

Suing as an Administratrix of

The Estate of Abal Cole (Deceased)

AND

Sierra Blocks Concrete Products -

1st Defendant/Respondent

Sierra Leone Limited

35 Light Foot - Boston Street

Freetown

AND

The Attorney General and Minister -

2nd Defendant/Respondent

Of Justice

Lamina Sankoh Street

Freetown

Counsel:

Jessie M. Jengo Esq. for the Plaintiff/Applicant

Yada H. Williams Esq. for the 1st Defendant/Respondent

E. Sankoh Esq. for the 2nd Defendant/Respondent

Ruling on an Application for a Stay of Execution of the Judgment of this Honourable Court of 10th January 2022, Delivered by The Hon. Dr. Justice Abou B. M. Binneh-Kamara, on Tuesday 28th June 2022.

1.1 Background and Context of the Application

J. M. Jengo Esq. (hereinafter referred to as Counsel for the Applicant) on 1st March 2022, applied pursuant to a notice of motion, bolstered by the affidavit of one Kainda Wray (Nee Cole of N0. 21 Off Adonkia Road, Goderich, Freetown) for among other things, a stay of execution of the Judgment of this Honourable Court of 10th January 2022. The content of the bolstering affidavit is collapsed into nineteen (19) paragraphs, containing a plethora of facts, which are sequentially cognate with the prayers in the notice of motion. Thus, the specific orders as prayed constitute the following:

1. That this Honourable Court do hear this application, notwithstanding the fact that the two (2) clear days' notice has not been given.
2. That this Honourable Court grant an interim stay of execution of the Judgment of the Honourable Dr. Justice Abou Binneh-Kamara, J. dated 10th January 2022, pending the hearing and determination of this matter.

3. That this Honourable Court do grant a stay of execution of the Judgment of the Honourable Dr. Justice Abou Binneh-Kamara, J. dated 10th January 2022, pending the hearing and determination of an appeal.

4. That this Honourable Court do grant any other orders that it considers just in the circumstances.

5. That the cost of this application shall be cost in the cause.

Contrariwise, Yada H. Williams Esq. (hereinafter referred to as Counsel for the 1st Respondent), on 16th March 2022, filed a detailed eighteen (18) paragraph long affidavit in opposition to the facts deponed to in the affidavit, supporting the application of 1st March 2022. Further, E. Sankoh Esq. Counsel for the Attorney-General and Minister of Justice and the 2nd Defendant/Respondent (hereinafter referred to as Counsel for the 2nd Respondent) did not initially file any affidavit in opposition to the application, but rather relied on the submissions of Counsel for the 1st Respondent, based on his affidavit as filed on 16th March 2022. Nevertheless, on 29th March 2022, Counsel for the Applicant, objected to Counsel for the 2nd Respondent's reliance on the submissions of Counsel for the 1st Respondent, because the former, had not filed any affidavit in opposition to the application.

Meanwhile, this Honourable Court thus upheld the objection and ordered that Counsel for the 2nd Respondent must file an affidavit in opposition, should he be clothed with any legal justification, to adopt and rely on the 1st Respondent's Counsel's affidavit in opposition. Meanwhile, on 5th April 2022, Counsel for the 2nd Respondent, addressed this Honourable Court, on the content of an affidavit in opposition, sworn to and dated 31st March 2022, in compliance with this

Honourable Court's ruling and direction of 29th March 2022. However, having presented the background and context of the application and the proceedings; as they unfolded before this Honourable Court, I will proceed to examine the submissions of the respective Counsel, as they were adduced, during the course of the proceedings.

1.2 The Submissions of Counsel for the Applicant

The following are the main arguments, upon which Counsel has constructed his case for this application:

1. There are three exhibits attached to the affidavit supporting the application. They are marked Exhibit KW1-3. Exhibit KW1 is the Judgment of the Honourable Dr. Justice Abou Binneh-Kamara, delivered on 10th January 2022, regarding a declaration of title to property as that of the 2nd Respondent, revocation of the Applicant's deed of conveyance, recovery of possession and damages for trespass, injunction and cost. Exhibit KW2 is the notice of appeal, encompassing information on the substance of the decision that is the subject of the pending appeal; the grounds of the appeal and the reliefs, which the Applicant, is requesting of the Court of Appeal.
2. Counsel relies on the entirety of the affidavit and singles out Exhibit KW3, which is a photograph, depicting a plethora of structures and buildings, which have been constructed on portions of the realty, which have not only been sold to different occupants (now owners) by the Applicant, but her Late father, Abal Cole and Late elder brother, Brima Cole. This depiction is indicative of a special circumstance that should culminate in an order for a

stay of execution of the Judgment of this Honourable Court, that is being appealed.

3. Should the Judgment be executed, it would amount to a circumstance of an irreparable damage and loss to those persons, who have erected structures and buildings on the very land. In fact, the site plans attached to the conveyances of the owners of the structures and buildings, were signed by persons, who had served as Directors of Surveys and Lands. So, the owners of such buildings and structures, do not have any reason to believe that the realty belongs to the State; neither has it been put on lease to the 1st Respondent; nor the idea that the realty's reversionary interest, belongs to the State.
4. The Ministry of Lands represents the State on issues, relative to ownership of realty by the State. This ministry has not let the public know that the realty's ownership, belongs to the state. Counsel furthers that his grounds of appeal are quite cogent and pleads with this Honourable Court to grant an order for a stay of execution of the Judgment of this Honourable Court, that is being appealed.
5. The application is made pursuant to Order 48 Rule 11 of the High Court Rules 2007, Constitutional Instrument N0.8 of 2007 (hereinafter referred to as the HRC, 2007). And in justification of the reasons why Counsel thinks that this Honourable Court, should grant the application, the cases of *Africana Tokeh Village Co. Ltd. v. John Obay Investment Development Ltd. Co.* [SLCA Misc. App. 2/94] and *Lucy Decker and others v. Goldstone Decker* {SLCA Misc. App. 11/22}, are accordingly referenced.

1.2 The Submissions of Counsel for the 1st Respondent

Nonetheless, Counsel for the 1st Respondent, adduced the following arguments, (as depicted in the affidavit of 16th 2022) in justification of why, he thinks this Honourable Court, should not grant the application:

1. Counsel for the Applicant has not shown any special circumstance that should warrant a stay of the execution of the Judgment of this Honourable Court of 10th January 2022, pending appeal. The affidavit supporting the application, does not point to any fact, relative to any special circumstance, that should prevent the execution of the said Judgment; noting that they have not shown how the execution, will personally affect, apart from the fact as stated in paragraph 13 of their affidavit, that the execution will affect their source of livelihood, which impinges on the sale of Government lands.
2. Their affidavit is restrictive in content to only how other people, would be affected, should the execution be carried out. Thus, paragraphs 8 and 9 speak volumes of how third parties, who are not parties to this action, would be affected, should the Judgment be executed. Even those third parties that are said, would suffer irreparable loss, because they have built structures and buildings on the land (the subject matter of this litigation) are not named at all. Further, the reference in paragraph 9 to disruption of the learning processes of academic institutions, that have come to occupy the land, is unclear; adding that the names of no academic institutions, are mentioned in the affidavit; neither did Counsel for the Applicant, establish whether those unnamed academic institutions, are in fact registered with the Government of Sierra Leone. Thus, it appears that the Applicant really wants

to continue with the illegal sale of portions of the land, that has been declared to be that of the State

3. They have categorically stated in paragraphs 13 and 15 that their source of livelihood for the past sixty (60) years has been the selling of portions of that vast land, which belongs to the State. This clearly contravened the injunctive order of this Honourable Court, granted on 22nd June 2020. How can a conduct that is quasi-criminal be said to be a special circumstance, that should prevent the execution of a Judgment of the High Court of Sierra Leone, pending appeal?
4. In fact, the perpetual injunction of 10th January 2022, has thus prevented the Applicant, her agents, privies or howsoever called, from having anything to do with that land, but they have unabatedly continued to encroach and sell portions of the land to numerous third parties. These nefarious activities are constitutive of the greatest degree of effrontery to the dignity and integrity of the High Court of Justice of the Republic of Sierra Leone.
5. Some aerial photographs of some beautiful structures and expensive buildings are attached to the application's bolstering affidavit. Counsel on the other side has not shown how the said photographs are connected to the proceedings; neither has he exhibited the names of the owners of the structures and buildings; nor has he produced their conveyances. Thus, the likelihood is that those photographs, are a mere depiction of structures and buildings, erected on other pieces of land not even adjacent to the land, which this Honourable Court says belongs to the State.
6. Irrespective of the previous injunction of 22nd June 2022, the Applicant has continued to sell the land. Prior to the delivery of the Judgment of this

Honourable Court, and even the period after Judgment, the Applicant and her privies have been very violent towards the 1st Respondent. They have destroyed properties on the land, belonging to the 1st Respondent. Thus, the Applicant and her privies have been thwarting police interventions, attempting to stop their wrongful conducts on the land. Thus, it follows that should the stay be granted, the Applicant and her privies, would continue their illegal activities on the land.

7. Counsel also relies on the celebrated cases of *Africana Tokeh Village Co. Ltd v. John Obay Investment Development Ltd. Co.* [SLCA Misc. App. 2/94] and *Lucy Decker and others v. Goldstone Decker* {SLCA Misc. App. 11/22}, in support of his submissions.

1.3 Submissions of Counsel for the 2nd Respondent

In addition to the foregoing submissions, Counsel for the 2nd Respondent, canvassed the following arguments in respect of why he also thinks that the application should not be granted:

1. There is an affidavit in opposition on file, pursuant to Order 31 of the HCR 2007, sworn to and dated 31st March 2022. There are two exhibits attached to the affidavit, sworn to by one Edward Sankoh and they are accordingly marked Exhibit ES1-2. Counsel relies on the entirety of the affidavit, with specific emphasis on paragraphs 5, 6, 7 and 8 of same, while adopting the submissions of Counsel for the 1st Respondent.

1.4 Analytical Exposition of the Law on Stay of Execution

Analytically, the large swathe of literature on stay of execution in the commonwealth jurisdiction is quite intriguing and straightforward. Thus, a stay of execution is an immediate act, ordered by a court of competent jurisdiction, because of some just, fair and reasonable considerations, to prevent the enforcement of a judgment, which it has already been delivered. This procedural ideal, is held sacrosanct even in circumstances, wherein that judgment, is based on either procedural or substantive justice. Circumspectly, in a situation wherein a court, refuses to grant an order of stay of execution, it behooves a higher or another court of competent and concurrent jurisdiction, to grant it, should it consider it just, fair and reasonable to do so.

Thus, an application for a stay of execution, must be contingent on the determination of the appeal of the very judgment, which enforcement is to be stayed. This presupposes that the execution of a judgment, cannot be stayed by any reasonable and credible tribunal of facts, in circumstances wherein, there are no available records, that the apposite notices of appeal and requisite bolstering affidavits have not been filed; for that tribunal to unpick and consequently determine whether the application, should or should not be granted. Catalytically, a stay of execution is granted between the inter-procedural periods after a judgment has been delivered and that leading to the hearing and determination of an appeal.

Essentially, the court is obliged to be quite meticulous when making an order for a stay of execution. Thus, such an order must not be equivocal and ambiguous; it must be clearly understandable. Further, the court must ensure that the usual undertaking condition precedent, must be fulfilled by the applicant, requesting for

a stay of execution. Again, in circumstances of monetary judgments, wherein monies are ordered to be paid to the other side, based on the undertaking, such sums must be refunded, should the appeal succeed. This principle was well articulated in *James International v. Seaboard West` Africa* (Misc. App. 19/97), *Firetex International Co. Ltd. and Sierra Leone External Telecommunications v. Sierra Leone Telecommunications Co. Ltd.* (Misc. App. 19,2002) and *Basita Mackie Dahklallah v. The Horse Import and Export Co. Ltd.* (Misc. App. 21/2005). Nonetheless, in circumstances that do not resonate with monetary judgments, no amount of money, can be ordered to be paid, on an undertaking that, if the appeal succeeds the payment, should be accordingly refunded (see *Patrick Koroma v. Sierra Leone Housing Corporation*).

Meanwhile, in our jurisdiction, an application for a stay of execution is made, pursuant to Rules 28 and 64 of the Court of Appeal Rules of 1985. Thus, it is clear in Rule 28 that an appeal to the Court of Appeal does not amount to a stay of execution of a judgment, order, ruling or decision; and that an order for a stay is specifically obtained from the Court of Appeal. Essentially, it is Rule 64 that contains the procedure, pursuant to which an application for a stay of execution can be made. That is, the applicant files the application to the High Court of Justice; and should that court refuse, the applicant is at liberty to apply to the Court of Appeal for it. However, it should be noted that page 35 of the Third Edition of Halsbury's Laws of England (Volume Sixteen), is very much instructive on the salient issues on stay of execution. Paragraph 51 thus states:

'The court has an absolute and unfettered discretion as to the granting or refusing of a stay. So also, as to terms upon which it will grant it, and will as

a rule, if there are special circumstances, which must be deposed to in an affidavit, unless the application is made at the hearing’.

Thus, in so many instances the Court of Appeal of Sierra Leone in advancing the frontiers of the jurisprudence in this area of the law, have refused to make orders for stay of executions, because the parties requesting for them were unable to convince Judges about the peculiarities of the circumstances, pursuant to which such orders should have been granted; bearing in mind the peculiar fact that, it is very unfair for successful litigants, to be deprived of the fruits of their judgments. {see Annot Lyle (1886) 11 P.D. 114 at page 116}. Significantly, neither the High Court of Justice, nor the Court of Appeal, can make an order for a stay of execution, unless there is a good reason for doing so.

However, some of the notable instances in which the Court of Appeal has refused applications for stay of executions include, S. M Saccoh v. Ibrahim A. Dahklallah and Sons (Misc App. 16/93), Reverend Archibald Gambala John (Executor of the Estate of Gustavus John) and others v. Lamin Denkeh (1994) Misc. App. 26/93, Desmond Luke v. Bank of Sierra Leone (Civ. App. 22/2004), Ernest Farmer and Another v. Mohamed Lahai {SLLR Vol. 3 Page 66 (1945)} etc. Conversely, there are also a plethora of instances, in which the Court of Appeal in its wisdom, has handed down several landmark decisions, in favour of applicants that showed, pursuant to their requisite supporting affidavits’ evidence, special circumstances, that warranted the Hon. Justices of that court to make numerous orders on stay of execution. Thus, some of the most prominent and salient Court of Appeal decisions, that are quite instructive on this point, are found in the cases of Africana Tokeh Village Co. Ltd v. John Obay Development Investment Co. Ltd. [SLCA Misc. App. 2/94], Firetex

International Co. Ltd. and Sierra Leone External Telecommunications v. Sierra Leone Telecommunications Co. Ltd. (Misc. App. 19/2002), Lucy Decker v. Goldstone Dicker (Misc. App. 13/2002) etc.

Meanwhile, the reasonable inferences that can be drawn from the above cases, are rationalized in the following considerations:

1. The jurisdiction to grant or refuse an application for a stay of execution is subject to the discretion of the court.
2. The Court's discretion must be justly, fairly and reasonably exercised in accordance with established principles.
3. In every circumstance wherein a stay of execution is granted on terms, such terms must never be onerous
4. The applicant must show a special (peculiar) circumstance, concerning the reason why the stay should be granted.
5. The applicant must also show a good ground of appeal.

However, the most immediate question that is to be addressed at this stage is what really constitute a special circumstance that should be established by the applicant for a stay of execution, to deprive the other side of the fruits of their judgments? This question certainly depends on the specificities of the facts of each case. Thus, what may constitute a special circumstance in one case, may not amount to a special circumstance in another case. This Honourable Court considers the Hon. Justice George Gelaga King's description of special circumstance, as one that generically guides and guards, any reasonable tribunal of facts, to clarify situations, that can be said to be special circumstances. The Hon. Justice thus pontificates:

‘A special circumstance is a circumstance beyond the usual; a situation that is uncommon and distinct and distinct from the general run of things’

Moreover, the foregoing description of a special circumstance is inextricably linked to the obita dictum of Esther M. R. in *Monk v. Bartram* (1891) 1 AB 346:

‘It is impossible to enumerate all the matters that might be considered to constitute special circumstances, but it may certainly be said that the allegation that there had been a misdirection or that the verdict was against the weight of the evidence or that there was no evidence to support it are not special circumstances, on which the court will grant a stay of execution’.

Furthermore, in *TC Trustees Limited v. J. S. Darwen (Successors) Co. Ltd.* 2 Q. B 259, the Court of Appeal while establishing the special circumstances, underpinning the granting of stay of executions, affirmed that such circumstances must be relevant to the stay, and not to a defense in law, or belief in equity, which might have been raised in the during the trial. The special circumstances must be relevant to the enforcement of the judgment; it must be totally unconnected with its content.

1.5 Unpicking the Affidavits Evidence in the Context of the Aforementioned Applicable Law.

The affidavit of Mrs. Kainda Wray, deponed to on 1st March 2022, contain nineteen long paragraphs, depicting the reasons, why Counsel for the Applicant is optimistic that this Honourable Court, should grant the application of stay of execution of its

judgment of 10th March 2022. Consequently, I have singled out the main paragraphs in that affidavit and have as well made them quite prominent in this analysis, to determine why the application should or should not be granted. Thus, the most valent and salient paragraphs of that affidavit are sequentially presented herein:

Paragraph 5: That I am reliably informed by my solicitors and verily believe that the 1st and 2nd Defendants' evidence adduced in court in this matter does not warrant the kind of judgment that was arrived at.

Paragraph 6: That unless this court stays the execution of the judgment dated 10th January 2022 herein the Defendants will evict all those other people who are not related to this action, but had been given land by my father, my elder brother who instituted this action before he died and my very self, who is in occupation of portions of the land.

Paragraph 7: That as a matter of fact, this property for well over fifty (50) years, has been in our family and it is the only property myself and other beneficiaries of my father who passed the property over to us have spent our entire lives developing, so it came to me as a surprise when according to my solicitors, the Judge stated in the Judgment that the land was not the property of our father and by extension not ours as well as he had nothing to pass to us.

Paragraph 8: That this judgment will cause irreparable loss and serious suffering not only to my family but also to several people who have built on the said land and have made the said premises their dwelling as business places. Photostat copies of photos showing structures on the said land are hereby shown to me, exhibited, and marked Exhibit KW3.

Paragraph 9: That should this judgment be executed all those who had bought land from us whose land documents have been signed by the Director of Surveys and Lands indicating that the lands they had bought are not state lands, would be rendered homeless and even the educational institutions that are built on the land would be placed

into disarray thereby affecting the schooling of the pupils that are in those educational institutions.

Paragraph 11: That if the judgment is not stayed, the 2nd Defendant would go around and demolish the buildings of very many of the people that we had sold to even before the commencement of this action and that will certainly bring an untold suffering on them together with their defendants.

Paragraph 12: That apart from the Director's survey plans which had been signed by the Ministry of Lands most of these buildings constructed on the subject matter herein were done with building permits granted to them by the Ministry of Lands.

Paragraph 13: That I am more than sixty (60) years old and some of my siblings are also around that age and we have over the years depended on the sale of the land which stretch well over 100 acres to educate and take care of the welfare of our different families.

Paragraph 14: That even though the Defendants are claiming 79 acres of land when our property is well over 100 acres, yet the judgment has rendered our entire documents useless and or ineffective as far as our fee simple ownership of the property is concerned.

Paragraph 15: That my very self and my other siblings' livelihood continued to depend on the proceeds that are derived from the rental, the lease and sale of the property herein.

Paragraph 16: That if the said judgment is executed the Defendants may demolish all the premises that have been built on the property of innocent purchasers for value without notices from me and the premises will be lost even if I succeed in the appeal.

Significantly, I will now proceed to deconstruct the foregoing paragraphs in context of whether they really do factually constitute very good grounds for the 10th January 2022 Judgment of this Honourable Court to be stayed. In doing this, I will further unpick the inexactitudes and erroneous points, raised in the very salient paragraphs of the bolstering affidavit of the application, that is about to be

determined. First, an application for a stay of execution should only concern issues that are cognate with the enforcement of the judgment; such an application must have nothing to do with the content of the judgment. So, it is quite irrelevant and even fallacious for the application's supporting affidavit's fifth paragraph, to contain facts relative to the content of the judgment as a point that is germane to an application for a stay of execution.

Again, on this point of the judgment's content, which really does not have anything to do with the issue of stay; it is as well delusional and misleading to think that cases on declaration of title to property are determined based on the weaknesses of other parties' titles. They are rather determined on the strengthens of the titles of those claiming titles to lands. The monumental decision in *Seymour Wilson v. Musa Abess* (S.C Civ. App. 5/97) is quite instructive on this point. As established in page 62 of the Judgment of 10th January 2022, 'the Plaintiff's (*now Applicant's*) conveyance is fraudulent, forged/fabricated and hence illegal' (my emphasis in italics).

Secondly, the affidavit's sixth paragraph thus alludes to some choreographically designed facts, that also have nothing to do with whether a stay of execution should or should not be granted, because they are just too immaterial to the enforcement of the said judgment. Thus, the issue of whether the execution will affect unidentified persons, who are not parties to this action is irrelevant; because the said judgment is in respect of the realty (the res) in this action and should be enforced against anyone, should it not be stayed. Still on that point, whether it can affect unidentified persons, who came to illegally occupied the realty, 'the nemo

dat non quad habet maxim' will thus strengthen the need for the stay not to be refused.

Thirdly, the seventh paragraph of the affidavit is as unnecessary as it is unconvincing to grant a stay of execution. Thus, it has nothing to do with the enforcement of the judgment. In fact, the Plaintiff's evidence in the trial, which only concerns the judgment (and not its enforcement), does not extend to issues of possessory title; as she relies on a fictitious and concocted documentary title, which this Honourable Court has accordingly nullified; because of its criminality. Fourthly, the ninth paragraph is repetitive and duplicitous of the same facts embedded in the eighth paragraph; and it is as well devoid of facts, that should warrant, an order for a stay of execution. Hence, the facts deponed to therein, are entirely unconnected with the enforcement of the judgment.

Further, I must also state here that even though such facts are incongruent with any realistic facts, that can be presented and espoused, in respect of an application for a stay of execution, it behooves this Honourable Court, to make it very clear that, the Ministry of Lands has no jurisdiction in the determination of ownership to land that is in contention in neither the provinces nor the Western Area of the Republic of Sierra Leone. Again, let it also be made clear (as it was emphasized in pages 59 and 60 of the Judgment of 10th January 2022) that it was wrong for the Ministry of Lands to have signed site plans, drawn from a so-called master plan that is still non-existent in the archival records of the said ministry. Thus, the signing of those so-called site plans, clearly contravened the provision of section 15 of the Surveys Act, Cap.15 of the Laws of Sierra Leone, 1960.

Still on this ninth paragraph the allusion to the disruption of the activities of educational institutions that have been constructed on the land, should this Court refuse to grant the stay; appears to be germane to the judgment's enforcement. However, upon a thorough scrutiny of this point, it should be noted as Counsel for the 1st Respondent argued, that the names (and even locations) of those academic institutions, are not mentioned; neither are there pieces of evidence about whether they are in fact registered institutions in this country; nor is there any evidence of the structures and buildings of such academic institutions on the land.

Fifthly, paragraph eleven is repetitive and duplicitous of the same facts, enshrined in paragraphs eight and nine. Sixthly, paragraph 12 is as well a replication of the facts in paragraph nine that has already been commented on; the same can be said of paragraph thirteen as well. Seventhly, paragraph fourteen touches and concerns the judgment (and not its enforcement); it contains some misleading and concocted facts, that must be set straight. Thus, the 1st Defendant (now 1st Respondent) is only claiming a right of possession of 79 and not 100 acres of the land; they are a lessee of the 2nd Defendant (now 2nd Respondent) and have not under any circumstance claimed to be the fee simple owners, entitled to the reversionary interest of the said 79 acres.


Meanwhile, it is only the 2nd Defendant (now 2nd Respondent) that has laid claims as owners of the fee simple absolute in possession, with the right of the reversionary interests to all the 100 or more acres of the realty. And this Honourable Court confirmed such claims in the light of available evidence in its Judgment of 10th January 2022. Thus, one really wonders why the foregoing concoction of the Applicant should, be interpolated into an application for a stay of

execution. In fact, that concoction does not dovetail with any issues, relative to the enforcement of the judgment. Eighthly, the thirteenth, fifteenth and sixteenth paragraphs are also a replication of facts that I have already commented on. Catalytically, to crown it all, none of the paragraphs in the foregoing affidavit, can be said to have met the threshold of special circumstances, enunciated in 1.4 above, for this Honourable Court to grant a stay of execution of its judgment of 10th January 2022.

This is indeed the point which Counsel for the 2nd Respondent made very clear in his submissions, in justifying why the application, should be denied. Thus, the simple fact that is mostly repeated in virtually all the above paragraphs of the Applicant's affidavit is that, should be execution be done, the livelihood of her family members, through the sale of portions of that land, would be threatened and that the other unnamed and unidentified occupants of the land would as be distressed. Meanwhile, Counsel for the 2nd Respondent adopted the submissions of Counsel for the 1st Respondent to emphasize the fact that the above repetitive and duplicitous fact, does not amount to a special circumstance, that should culminate in an order for a stay of execution. That notwithstanding, it must as well be noted, that most of the facts in the eleven (11) paragraphs of the 2nd Respondent's opposing affidavit, do not have anything to do with the judgment's enforcement; they rather contain facts of the Judgment, which really do not have anything to do with the issue of a stay of execution. Meanwhile, based on the foregoing analysis, the orders prayed for in the application are hereby denied and the cost of the application shall be cost in the cause.

I so order.

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



28/6/2022

Justice of the Superior Court of Judicature

of the Republic of Sierra Leone.