CIV.APP.4/2025

IN THE COURT OF APPEAL OF SIERRA LEONE



BETWEEN:

HAJA MEMUNATU KALOKOH – APPELLANT

AND

MRS. NENEH KALOKOH – RESPONDENT

CORAM:

Hon. Mr. Justice Abdulai M. Bangurah – JSC (Presiding)

Hon. Mrs. Justice J.E.L.King – JA

Hon. Mr. Justice M.P.Mami – JA

COUNSEL:

B.S. Kamara Esq – for the Appellant

I. Samba Esq – for the Respondent

JUDGMENT DELIVERED BY THE HON.MR. JUSTICE A.M. BANGURAH – JSC ON 21ST JULY 2026

This matter came to us by way of an Appeal dated and filed on the 15th January 2025, against the Judgement of His Lordship the Hon Mohamed Bawoh J, delivered on the 5th December 2024, at the instance of Haja Memunatu Kalokoh the Appellant herein (and hereafter "the Appellant").

The grounds of appeal as stated in the Notice of Appeal filed herein are that:

i).The Learned trial Judge(hereafter "the LTJ"), ought not to have heard the Originating Notice of Motion dated the 23rd October 2024 and filed by the Respondent herein and pursuant to which an Order of certiorari and other reliefs were granted, as there was no Order, warrant, commitment or conviction verified by an Affidavit that informs the Order of certiorari and thus contravened Order 52(8)(1) of The Court Rules 2007.

ii).The LTJ erred in law when he failed to take cognizance that, contentious probate issues should not be determined by an Originating Notice of Motion supported by an Affidavit for which the Hon. LTJ lacks jurisdiction.

iii). That the Learned trial Judge erred in law when he erroneously relied on provisions of Section 9(1,2&5) of The Devolution of Estates Act 2007, to grant adverse orders against the Appellant, which said legislation is not applicable to family property held under Customary law, in contravention of Section 1(3) of the said Act.

iv). That the LTJ erred in law when he deliberately or otherwise conferred an original jurisdiction on himself by determining issues touching and concerning the Administration of the estate of deceased intestate, bordering on or governed by Customary law, contravening Section 21(b) of the Courts Act 1965.

v). The Decision of the LTJ is against the weight of the evidence.

The reliefs sought from this Court are that, the decision of the LTJ be set aside and a declaration that, the local Court is the proper forum to determine most of the issues determined by the High Court. And that consequent upon the above, judgement be entered for the Appellant and costs awarded by the lower Court be refunded if already paid.

And any other further Orders as the Court deems fit and just under the circumstances.

Costs.

BRIEF FACTS.

This matters relates to a portion of the estate of one Pa Alhaji Osman Kalokoh deceased intestate(and hereafter "the Intestate"), situate lying and being at Nos. 32 and 34 Dr. Vincent Kanu Road (formerly Station Road) Makeni Bombali District in the North East province of the Republic of Sierra Leone.

The Appellant is one of thirty six children of the Intestate and the Respondent is the lawful widow of one of his children a Abdul Sanpha Kalokoh, also now deceased intestate.

The Respondent alleges that, her deceased husband's father the Intestate sometime in 1984, shared his property aforesaid amongst his several wives. And that the portion now in dispute was given to her late husband as his late morher share, who had died before the sharing. That subsequent to the allocation of that portion of the Intestate's estate to her husband, they moved into same, from No.11 Kamal Street where they were resident and had all their three children in the said premises. They had peaceable enjoyment of the premises, until the demise of the Intestate Pa Alhaji Osman Kalokoh in 1991.

The Respondent continued that, following the death of the Intestate, she and her husband came under immense pressure and harassment from the Appellant and her cohorts, to vacate the said property in issue.

The Appellant on her part contends that, the Respondent was her late brother's paramour, as they were never married. That property in issue situate at No 32 Dr. Vincent Kanu Road Makeni, was never allocated to her said deceased brother Abdul Sanpha Kalokoh. And that Respondent and her said deceased brother, cohabited in only one of three rooms in that apartment and that the other two rooms were reserved for visitors.

She asserted that, her late brother Abdul Sanpha Kalokoh was had out of wedlock, as her father the intestate was never married to his mother. Therefore no portion of the intestate's estate was allotted to his said mother, who was never a wife to her deceased father the Intestate.

The Respondent asserted that, the harrasment and intimidation became so intense that, she and her family fearful of their safety, moved out out of the property and went back to number 11 Kamal Street, where her husband died. They however maintained control of the property at No. 32 Dr Vincent Road, notwithstanding that, each time they attempt renting same, the prospective tenants were frightened by the Appellant and her supporters.

The Appellant eventually barricaded the property (hereafter "the disputed property"), by welding the entrance to same.

Consequent upon the foregoing, the Respondent made a Report at the FSU division of the police in Makeni against the Appellant, who in turn made a counter Report against the Respondent and two of her children. The police attempted mediating between the parties without success. Charges were therefore preferred against both sides.

In the Course of the trial, the Magistrate Ordered the Appellant to open the property by removing the welding and the Respondent to handover the keys to same, to the Appellant to effect repairs and renovate the property, change the locks and thereafter surrender the keys to the Court. The Respondent herein being aggrieved by that Order of the Magistrate, filed an Originating Notice of Motion in the High Court, seeking to invoke the supervisory jurisdiction of that Court over Magistrate Courts.

The High Court heard the said Application and delivered judgement on the 5th day of December 2024, in favour of the Respondent herein.

The Appellant's Counsel first sought leave to appeal to this Court against that judgement by an application dated the 10th December 2024. He however on hindsight i suppose, abandoned that Application and filed the Appeal now before us as of right.

The application of the 10th December 2024 for leave to appeal was clearly inadvertent, as the judgement of the lower Court disposed of the entire matter that was before it and therefore a final Judgement for which an appeal to this Court is as of course.

SUBMISSIONS BY COUNSEL FOR THE APPELLANT.

Learned Counsel for the Appellant in both his synopsis and his oral arguments before us, submitted as follows:

That the interim Orders of the Magistrate Court sought to be quashed in the court below were not exhibited or attached to the Affidavit in Support of the Application thereof and therefore there was nothing before the lower to be quashed. And that this alledged failure of the Respondent herein and Applicant therein, to exhibit the Orders he was seeking to quash and LTJ's failure to avert his mind to it, was an abuse of process and thus fatal. He cited Order 52 Rule 8 (1) of The High Court Rules 2007 and to the Oroginating Notice of Motion filed by the Respondent herein and Applicant therein, found at pages 1 to 10 of this Cout's Records, in support of that submission.

On this ground, he went on to submit that, the proper recourse to the lower Court against the preliminary orders of the Magistrate, ought to have been by way of an Appeal and not an application for judicial review. He opined that, where other remedies are available, judicial review should not be exercised. He referred this Court Regina V. Commissioner of Police Exparte Macualay(1968-69) ALRSL 8, quoted with approval by the Supreme Court in Exparte Muctaru Ola Tajudeen V. The Anti-Corruption Commission and The State.

Arguing the second ground of the Appeal, Counsel contended that, it is settled law that, contentious probate matters should not be commenced by Originating Summons but by Writ of summons, which allows oral trial through Witness testimony, with a view to bringing out all the issues and thereby enabling the Court to reach a comprehensive and conclusive outcome. He said allowing contentious probate matters to be determined by Originating Summons, is in contravention of Order 55 of the High Court Rules 2007. Counsel asserted that, both the Originating

Summons and the Affidavit in opposition filed by both Parties in the lower Court disclosed many contentious probate issues,upon which the proceedings in the Court below were premised. Placing reliance on Order 55 Rule 2(1&2) of The High Court Rules 2007, Counsel submitted that, The LTJ erred and misdirected himself in discarding those hotly contested issues in both processes filed in his Court and proceeded to determine the matter.

On the third ground, Counsel submitted that His Lordship erroneously relied on provisions of law that are clearly inapplicable in the instant case. Counsel is of the view that the disputed property is family property held under Customary law. Therefore Section 9(1,2&5) of the Devolution of Estates Act 2007 do not apply to such property, by reason of Section 1(3) of the said Act.

I note with utmost umbrage, learned Counsel's derision of His Lordship the LTJ, when he Contemptuously questioned His Lordship's appreciation of lthe aw. When a Judge misstate the law, he is said to have erred and not deficient in the law. Learned Counsel's insinuation that His Lordship was lacking in the law because in his view the the LTJ misapplied a certain principle of law, is not only disrespectful, but outrightly contemptuous, for which Counsel can legitimately be cited and committed for contempt.

Counsel are therefore admonished to be absolutely respectful of the bench, no matter how strongly they feel about an Order, Ruling, finding or Judgement. That is what professional ethics is all about.

We are humans, saddled with a very high case load and working under very challenging circumstances. We take notes in long hand, do our research, write reasoned Judgements, under very tight and competing timelines. We are therefore circumstantially not infallible and thus occasionally susceptible to mistakes, which explains why there are layers of our Superior Court of judicature for redress. Such Mistakes however, do not wrestle the law out of a judge's bossom, as Counsel seems to suggest in this case. Counsel are trained to be temperate in their diction, in processes they filed in Court.

On ground four, Counsel averred that, the LTJ contravened Section 21(b) of The Courts Act 1965, in conferring on himself jurisdiction to hear and determine a matter relating to the Administration of an estate governed by Customary law. He submitted that, the Orders granted by the lower Court, particularly the 4th, 5th and 6th Orders in its judgement of the 5th December 2024, relate to the Administration of the estate of a decrased native the Intestate, Pa Alhaji Osman Kalokoh, situate in the provinces, which administration by Section 15(3)(c) of the Local Courts Act 2011,vis conferred on the Local Court of the Chiefdom where such estate is situate. Section 21(b) of The Courts Act 1965, rids the High Court of any such jurisdiction.

The fifth ground is the omnibus ground that, the Judgement is against the weight of the evidence adduced in the lower Court.

He urged us to uphold the Appeal and set aside the lower Court's Judgement of the 5th December 2024 maintained the Status quo ante to the preferment of the charges in the Magistrate and the matter be remitted to the local Court for determination. Any other further Order(s) as the Court deems fit and proper. Costs.

SUBMISSIONS BY COUNSEL FOR THE RESPONDENT.

In his response, learned Counsel for the Respondent in both his synopsis and oral arguments stated thus:

That the Application filed by the Respondent herein, was for an Order of certiorari quashing the interim orders of the Magistrate Court, injunctive reliefs against the Appellant and other Orders.

On his failure to exhibit the Order of the Magistrate Court he was seeking the lower Court to quash, he submitted relying on the proviso to Order 52 rule 8 (1) that, the said omission or failure was explained to the satisfaction of the Court below and referred us to paragraph 29 of the Affidavit in Support, Which alludes to the absurdity of the Magistrae's Court Orders, in conferring benefits to the Appellant, instead of reprimanding her for her misconduct in sealing off the Respindent's apartment without the latter's approval. Counsel also referenced the supervisory jurisdiction of the High Court conferred on it by Section 134 of the Constitution of

Sierra Leone 1991 and urged this Court to dismiss the first ground of Appellant's Appeal.

Arguing the second ground, Counsel submitted that the Application filed in the Court below emanated from interim Orders made in a Criminal matter pending in the Magistrate Court, that has nothing to do with contentious probate matters and therefore Order 55 of the High Court Rules is of no moment in the instant case.

He contended further that, by Order 2 Rule1(3) of the extant Rules of ths Court, the Court shall not now wholly set aside an action on the basis that it was begun by the wrong Originating process. He said the lower Court took cognizance of the said Rule in determining the Application that was before it and therefore ground two should fail.

On ground three, Counsel conceded that, Section 1(3) of The Devolution of Estates Act 2007, excludes family and community property held under Customary law, from the effects of that Act. He however argued that, the said Act does not specify with precision, the persons to whose estates it applies. He cited Section 1(1) of same which provides that, it applies to every person who dies leaving property in Sierra Leone, irrespective of their religion or ethnic origin. He submitted that, the property in issue situate in Makeni in the North East province of the Republic of Sierra Leone, is in part of Sierra Leone and thus within the purview of that Act. This in Counsel's estimation clothed the High Court with jurisdiction to hear and determine any dispute arising from the said property and the Application that was before the lower Court relates to the said property, from which the Appeal now before us emanated.

Counsel submitted that, the use of the word "Court" in Section 9(5) of The Devolution of Estates Act 2007, is referrable to the High Court and thus vests that Court with the power to distribute the estate of the Intestate Pa Alhaji Osman Kalokoh, as his widows and children could not agree on the allocation of those houses that constitute the said estate He urged the Court to dismiss the 3rd ground of Appeal.

The fourth ground alledges a contravention of Section 21(b) of the Courts Act 1965, which precludes the lower Court from administering the estates of deceased natives situate in the provinces.

In response Counsel for the Respondent submitted that, the Court below is vested with jurisdiction to determine the matter that was before it in pursuance of Sections 9(2) and 15(2) of The Devolution of Estates Act 2007. The said Sections provide that, where the widows and children a of deceased are unwilling or unable to distribute the estate, a Court HAVING JURISDICTION IN RELATION TO SUCH ESTATE, shall upon Application do the distribution (Section 9(2)) and a spouse shall have the right to live in the property she cohabited with her deceased spouse, during her life time (Section15(2)). That the use of the word "court" in Section 9(5) confers the High Court with jurisdiction to do the allocation and/or distribution of the estate, where the widows and children could not agree.

Counsel concluded that, the LTJ acted within the relevant law and the facts availed his Court. And that, the Judgement appealed against is not in anywise flawed. He urged this court to dismissed the Appeal and uphold the Judgement of the lower Court dated the 5th December 2024. That the status quo of the subject matter be maintained, with costs to the Respondent.

ANALYSIS AND FINDINGS OF THIS COURT.

GROUND ONE:

Counsel for the Appellant contended that, the Orders of the Magistrate Court sought to be quashed in the lower Court were not exhibited in the Affidavit of the Respondent filed in the said Court and therefore the were no Orders before that Court to be quashed. This failure on the Respondent's part and the LTJ's failure to avert his mind to it is fatal, in view of Order 52 rule 8(1) of the High Court Rules 2007, and that the proper recourse to the lower Court, ought to have been by way of an Appeal and not an Application for judicial review. And that were other remedies are available, judicial review is inappropriate. He cited the the case of Regina V. Commissioner of Police Exparte Macualay(1968- 69) ALR SL 8.

Counsel for the Respondent relying on the proviso in Order 52 rule 8(1) aforementioned submitted that the failure to exhibits the interim Orders of the Magistrate Court, was explained to the High Court, to the satisfaction the LTJ and he thus allowed the matter to proceed. He referred to paragraph 29 of the Respondent's Affidavit in support of the Application filed in that court.

My findings on that grounds are that:

Firstly, the Application filed in the lower Court is in pursuance of Section 134 of the 1991 Constitution, in invocation of that Court's supervisory jurisdiction over all subordinate Courts etc and not an Application for judicial review under Order 52. Therefore, learned Counsel for the Appellant' s reliance on the said Order 52 rule 8(1) is inadvertent.

Secondly, paragraph 29 of the Respondent's Affidavit referenced by her Counsel, does not in any sense explained the failure on his part referred to in ground one, as that paragraph deposed to what Counsel described as the absurdity of the Magistrate's orders, in conferring benefits on the Appellant, instead of reprimanding her for her misconduct. It does not proffer reasons for the failure to exhibits Magistrate's Orders. However, Section 134 ibid under which the Respondent went to the lower Court, does not provide for such requirements.

Thirdly, Section 134 of the Constitution is in my considered opinion, broader in scope than Order 52 aforereferred. This is so because, the former includes the issuance of a writ of habeas corpus, a process that is not included in Order 52(1)(a&b) that defines the scope of the former i.e. an application for judicial review.

It seems to me therefore that, although the two are inextricably intertwined, judicial review is more frequently invocable in civil proceedings, whilst the supervisory powers conferred in Section 134 supra, are invocable in both Civil and criminal proceedings.

Also, powers conferred in Section 134 aforesaid are conferred on the Court not on the judge. Therefore, an Application to invoke those powers is by Originating Notice of Motion and not by Originating Summons, as such Application is to the Court, not

to the judge. Infact by Order 52 rule 4(1), even an Application for judicial review is by Originating Notice of Motion and not by Originating Summons, as Counsel for the Appellant seems to suggest.

Therefore, barring the other prayers and Orders granted, the Respondent was right to have come to the lower Court by way of an Originating Notice of Motion, for an Order of certiorari quashing the interim Orders of the Magistrate's Court.

Consequently, ground one of this Appeal fails.

GROUND TWO. Here Appellant's Counsel submitted that, both the Affidavit supporting the Application in the lower Court and the Affidavits in Opposition against raised contentious probate Matters, which must not be commenced by an Originating Notice of Motion, but by a writ of summons, with a view to allowing oral hearings through the testimonies of witnesses and the exchange of pleadings, so as to bring out all the issues. He furthered that, to hear and determine contentious probate matters through Originating summons, is in contravention of Order 55 rule 2(1&2). That the LTJ erred in law and misdirected himself in discarding those hotly contested issues and proceeded to determine the matter begun by the wrong process.

Counsel for the Respondent countered that, the Application to the Court below emanated from orders granted by the Magistrate Court in a criminal matter that is pending in that court and therefore has nothing to do with contentious probate matters. Consequently, Order 55 is of no relevance here.

Further, he maintained that, commencing actions by the wrong mode is no longer fatal under the extant Rules of the lower Court. He cited Order 2 rule 1(3) of that Court's Rules.

I agree with Counsel for the Appellant that, there are a number of prayers sought and obtained in the lower Court, that relate to contentious probate matters, which cannot be heard and determined on Affidavit evidence. See Order 55 rule 1(1&2).

I also note and agree with Counsel for the Respondent that, such inadvertence is no longer fatal under the 2007 Rules. Authorities galore, where judges have

converted such probate matters begun by the wrong Originating process, by ordering the exchange of pleadings and a trial, in pursuance of Order 2 rule 1(3) aforementioned.That position was noted by the Supreme Court in its judgement in SC.CIV.APP6//2006, AIAH MOMOH Vs. SAHR SAMUEL NYANDEMOH, when it noted that, the Judgement of the lower Courtt that struck out the action for it being begun by the wrong mode was upheld because, that judgement was delivered under the old 1960 rules, that do not have a similar provision to Order 2 rule 1 (3) of the extant Rules.

However, a court can only have recourse to that Order , if it is clothed with jurisdiction. In the instant case the lower court is absolutely bereft of any jurisdiction to hear and determine contentious probate matters relative to the estate of deceased natives situate in the provinces, by virtue of the preclusive provisions of Sections 21(b) of the Courts Act 1965 and 15(3)(c) of the Local Courts Act 2011. Ground two of this Appeal therefore succeds.

GROUND THREE.

The Appellant contended here that His Lordship the LTJ. erroneously relied on provisions of the law that do not apply to the instant case. Counsel submitted that, Section 9(1,2&5) of the Devolution of Estates Act 2007, prayed aid to by the LTJ in reaching some of the conclusions he reached, do not Apply to family property held under Customary law. That the res in the.action that was before him forms and constitute part of the estate of Pa Alhaji Osman Kalokoh deceased intestate, situate in the provinces and now vested in his said estate. He cited Section 1(3) of the said Act, in support of that contention.

Learned Counsel for the Respondent on his part conceded to the preclusive effect of Section 1(3), but argued that the Devolution of Estates Act does not specify with precision, the categories of persons whose estates are subject to its provisions. He referred us to Section 1(1) of that Act, which provides that, it applies to every person, who dies leaving property in Sierra Leone, irrespective of his religion or ethnic group. He asserted that, the property in issue situate in Makeni city Bombali District in the Noth east province of Sierra Leone is within the remit of the Act. That in Counsel's estimation clothed the High Court with jurisdiction, as the action that

was before the lower Court relates to the property in question and from which the Appeal now before us emanated.

Learned Counsel submitted further that, the use of the word "Court in Section 9(5) of the Devolution of Estates Act, is referrable only to the High Court and thus vests that Court with jurisdiction, to distribute the family property held under Customary Law, as the surviving widows and children are unable to agree on the allocation of same. He therefore urged the Court to dismiss the third ground.

With respect to learned Counsel for the Respondent, his foregoing submissions are palpably flawed. The High Court by the preclusive provisions of Sections 21(b) of the Courts Act 1965 and 15(3)(c) of the Local Courts Act 2011, is absolutely bereft of any Jurisdiction to administer the estates of deceased natives situate in the provinces and governed by Customary law. Ground three of this Appeal succeds.

GROUND FOUR.

This ground alleges a contravention of Section 21(b) of the Courts Act 1965. Which puts the administration of estates of deceased natives situate in the provinces outside the jurisdictional purview of the High Court.

In response, the Respondent's Counsel countered that, the High Court is vested with jurisdiction to hear and determine, the matter that was before it, in view of Sections 9(2) and 15(2) of the Devolution of Estates Act 2007. The said Sections provide that, where the widows and children of the deceased are unwilling or unable to call in and distribute the estate, THE COURT HAVING JURISDICTION IN RELATION TO SUCH ESTATE, shall on Application do the distribution and that a spouse shall have the right to live-in the property he or she cohabitted with the deceased spouse, during her life time. He reiterated the view that,the use of the word "Court" in Section 9(5) confers jurisdiction on the lower court, to distribute and/or allocate the assets of a deceased person, where the surviving beneficiaries could not do so.

He concluded that, the LTJ acted within the relevant law and the evidence availed his Court and therefore the judgement appealed against is not in anywise flawed. He urged us to dismiss the Appeal and uphold the Judgement of the lower Court

dated the 5th December 2024. That the status quo ante be maintained, with costs to the Respondent, payable by the Appellant.

It seems to me that, Counsel for the Respondent is completely oblivious of the condition precedent to the conferment of jurisdiction on the lower court, by Section 9(5) supra, that is if that Court has jurisdiction in relation to such estate. Sections 21(b) of The Courts Act 1965 and 15(3) (c) of The Local Courts Act 2011, rids the High Court of jurisdiction to enquire into such matters, relative to the estates of deceased Natives situate in the provinces, the administration of which is governed by Customary law.

I have consistently used the phrase " estates of deceased natives situate in the provinces". This is to underscore the point that, the administration of estates of deceased non-natives situate in the provinces and those parts of the estates of deceased natives situate in the Western area, are governed by the English law, under the provisions of The Administration of Estates Act, Cap 45 of the laws Sierra Leone 1960, by reason of the fact that, the personal law of non-natives is the English law and Customary law does not apply in the Western Area.

Therefore, where a deceased native dies intestate leaving property in the Western Area and in the provinces, his Administrator may have to obtain letters of Administration from both the probate division of the High Court in respect of the property situate in the Western Area, where his personal law(the Customary law) does not apply and from the local Court of the chiefdom where the provincial property is situated.

On the other hand, where a Non-Native dies intestate leaving property in both the provinces and in the Western Area, his Administrator need only obtain letters of Administration from the probate division of the High Court for both properties, as the English law which is the personal law of Non-natives applies throughout the Country. See Section 1(a&b) of cap 45 supra.

Also instructive to note is the fact that, where a Native execute a Will during his life time, upon his demise probate can only be taken of that Will from the probate division of the High Court, as he will be deemed to have elected the English law to

govern the administration of his estate and thus lose the benefits of customary law, his personal law. See Section 76(3) of the Courts Act 1965.

On Section 15(2) of the Devolution of Estates Act 2007, it presupposes that, the property cohabited in by the couple, is the personal property of the deceased spouse or a family property he is entitled to as a beneficiary. The latter is still in dispute in the instant case, until determined by a court of competent jurisdiction. Nothing entitles a spouse to continue to live in a rented property after the demise of his or her spousal partner, after the expiration of the time granted to the deceased spouse.

In conclusion, it seems to me that, Pa Alhaji Osman Kalokoh is said to have done an oral Will, which is a valid Will under customary law, if proven by witness present at the time of its making. Again, this is also still in issue in this case.

In the circumstances, the fourth ground of appeal succeeds.

Having regard to all of the above, this Appeal is upheld and I hereby making the following Orders:

i). That the judgement of the lower Court dated the 5th day of December 2024 is hereby upturned, save the Order of certiorari quashing the interim Orders of the Magistrate Court of Bombali Judicial District and which orders shall remain quashed.

ii). That the Bombali Sebora Chiefdom Local Court is hereby ordered to determine the right of user and/or occupancy of that portion of the estate of Pa Alhaji Osman Kalokoh situate lying and being at No.32 Dr. Vincent Kanu Road (formerly Station Road) Makeni, between the estate of the said Pa Alhaji Osman Kalokoh and the estate of his son Abdul Sanpha Kalokoh.

iii). That the Criminal matters pending in the Magistrate Court of Bombali judicial District against both Parties and the Respondent's two children are hereby struck out.

iv). That the conduct of the Appellant herein in sealing off the entrance to the premises at No. 32 Dr Vincent Kanu Road Makeni was arbitrary and outrightly unlawful, as she had no capacity under which she acted.

v). That the status quo ante to the arbitrary and unlawful conduct of the Appellant herein be maintained pending the determination of the matter referred to the Local Court herein. Meaning that, the Respondent herein and her children shall continue in occupation of the said apartment at No 32 Dr. Vincent Kanu Road Makeni either physically or constructively pending the determination of the said matter referred to Bombali Sebora Local Court.

vi). The Appellant and all her siblings are hereby restrained from inter meddling with the Respondent's occupation, control and/or possession of the aforesaid property situate at No.32 Dr. Vincent Kanu Road Makeni, during the pendency of the matter in the local Court.

vii). I shall make no Order as to costs, as both Parties had acted wrongly, either personally as in the case of the Appellant or through their Counsel as in the case of the Respondent herein.

Hon. Mr. Justice A.M.BANGURAH JSC

---I agree

Hon Mrs Justice JEL King JA

---I agree

Hon. Mr Justice M.P..Mami JA

