DIST APP. 092/22 K/22

IN THE DISTRICT APPEALS COURT
HOLDEN IN THE KENEMA JUDICIAL DISTRICT

BETWEEN
IBRAHIM KAMARA -APPELLANT/RESPONDENT
KENEMA CITY
AND
ADAMA JOHNSON -DEFENDANT/APPLICANT
KENEMA CITY

LEGAL REPRESENTATION
M. Sherriff- Esq., Counsel for the Appellant
F. K. Gerber-Esq., Counsel for the Respondent

JUDGMENT DELIVERED BY MAGISTRATE/CHAIRMAN HADIRU DABOH
DATED 17TH NOVEMBER,2025

This Matter has succeeded several Magistrates/Chairmen. It commenced at the Nongowa Local Court No. 4, Duwala Compound, Lambayama Avenue, Kenema Judicial District. Both the Prosecution and Defence Witnesses were taken before I took over as Chairman.An Application was granted pursuant to Section (40) Subsection (2) of the Local Courts Act, No.10 ,2011, by **His Worship Abdul Carew,** on the 24th March,2022, and same was upheld by **Hon. Justice Abdul Sherriff J,** on 11th June,2025, which led to the remittance of Proceedings to my Predecessor, **His Worship Mustapha Briama Jah**.I then commenced same without Assessors on the 25th June, 2025; faced with the Submission of the Closing Addresses and to deliver this Judgment. Upon perusal of the file together with the Addresses, the Legal issues thus discerned of high concern, are as follows:

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- Whether the decision of the then Chairman/Magistrate, Abdul Carew to sit without Assessors pursuant to section (40) (2) of the Local Court Act No. 10, 2011, was correct.
- Whether the Property situate, lying, and being at No. 85 Blama Road, Kenema, actually belonged to the late **Etta Lamboi,** the Mother of both Parties.
- Whether the Appellant/Respondent is right to claim the Subject matter that his father **Mohamed Lamin Kamara** wasthe first to marry their Mother. This father died in 1961 and was survived by three Wives and several other Children. He also claimed that the Property was at one point leased by his elder brothers
- Whether the Defendant/ Applicant is correct to claim ownership that the Subject matter was acquired by their Mother through their own Father, the late Paramount Chief **Alfred Lamboi Foray**, who married their Mother in 1970.According to the Defendant, the Subject matter was acquired by their Father through his in-laws, and being a well-to-do man at the time; working for PWD, Ministry of Works, Kenema, developed the Property.
- Whether the **WILL** found after the demise of the Defendant's fatheris tenable before this Court.

From the above, this Court remains saddled with issues of Customary law, claims of Freehold /Leasehold Ownership of the ***res*** by the Nativesof Nongowa Chiefdom, the Common Law, doctrines of equity and good conscience, and the Jurisdictional Limits of District Appeals Court. Under Sierra Leone's Judicial Structure,the District Appeals Court, often called the Local Court Appeal Court, handles appeals from Local Courts, which are limited to Petty Civil and Criminal Matters. Title to land disputes, especially those invoving Freehold or Leasehold rights are definitely cognisable by the High Court and can only reach the Court of Appeal and utimately the Supreme Court, after the High Court Decision. A

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Chairman of a District Appeals Court therefore lacks Jurisdiction to rule on a Title Case. The District Appeals Court sits above Local Court,but does not have Original Jurisdiction over land title actions, because they fall under the High Court's exclusive Original Jurisdiction.

As a matter of fact, the High Court is the only Competent Court to commence matters on **WILLS** and other **TESTAMENTS** in Sierra Leone. It has unlimited jurisdiction over civil matters, which include Probate Actions such as the grant of Probate of a WILL, Letters of Administration, and any disputes concerning the validity, interpretation, or execution of a TESTAMENT. Thus, if the Appellant herein wants to file a Petition for Probate or contest the WILL of the Defendant, he needs to commence same at the High Court, if the Defendant also wants to recover the Subject matter or contest the Freehold and/or Leasehold of her half-brothers, both can do so pursuant to Orders (6) and (7), of the High Court Rules, 2007.

Although Section (11) Paragraph (c) of ***CAP. 122, THE PROTECTORATE LAND ACT, THE LAWS OF SIERRA LEONE, 1960***, Sections (7) and (8) of the ***Courts Act, No.31,1965***, Order (I) Paragraph (c) and Order(II), of the ***Magistrates' Courts Civil Procedure Rules,1966,*** section (40) ***of the Local Courts Act, No. 10, 2011***, the***NationalLand Commission Act, 2022***, the ***2021 Courts Act***, and Sections (6) and (7) of the ***Customary Land Rights Act,No. 20, 2022,***recognize the Civil Jurisdiction of the District Appeals Court, the Supreme Court decision in ***DANIEL K CAULKER vs. KOMBA KANGAMA (1974/5),***had clarified that the High Court's Original Jurisdiction over land titles in the Provinces is ***exclusive,*** thus pushing certain land cases out of the District Appeals Court.

Despite the Supreme Court decision of ***Kangama***, Scholars onCustomary Law in Africa, like Professor Joko Smart, Bentsi-Enchill, and T.O. Elias, have been acknowledged by Dr. Ade Renner-Thomas, in Chapters 6 and 7, of his Text, ***LAND***

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TENURE IN SIERRA LEONE, from pages 141 to 157,thus observing that though it has often been doubted whether there is any real or true ownership of land under African Customary Law , there is no doubt that African Societies, like Human Societies everywhere, acknowledge and protect legal rights to property and recognize a relation between particular property and the person in whom it is vested. The notion of a legal right also involves the cluster of claims, privileges, powers and immunities generally associated with Ownership. By this, ownership could mean as an aggregation of rights vested in the holder.The only Court with the required Jurisdiction to try and determine disputes over these rights, particularly on Freehold, Leasehold, and Testaments, is the High Court of Sierra Leone. I hereby order as follows:

1. That this Court Lacks Jurisdiction to determine matters on Freehold and/or Leasehold ownership.
2. That by Order (1) of this Judgment, either of the Parties is at liberty to seek redress in the CompetentCourt of Jurisdiction by taking out eithera Writ of Summons or an Originating Summons.
3. That to preserve the ***res*** in Peace; from squander and dissipation, the status quo remains, pending any further Legal Action, by either of the Parties herein.
4. No order as to cost.

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MAGISTRATE HADIRU DABOH (SENIOR)
PRINCIPAL MAGISTRATE
COURT NO.1
KENEMA JUDICIAL DISTRICT

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