Neutral Citation Number; CIV.APP 4/2024) SLCOA (Civil Division)

Case No: CIV. APP 4/2024

IN THE COURT OF APPEAL OF SIERRA LEONE.
ON APPEAL FROM THE HIGH COURT OF SIERRA LEONE
HON JUSTICE MANUELA A J HARDING J

Law Court Building
Siaka Stevens Street
Freetown

Date: 8 July 2026

COURT OF APPEAL SIGN DATE 8-7-26 REGISTRY

Before:

THE HONOURABLE MR JUSTICE SO TAYLOR JA (PRESIDING)
THE HONOURABLE MR JUSTICE AS ALIEU JA

and

THE HONOURABLE MR JUSTICE A FISHER J

.....

Between:

MOHAMED LAWAL ABDULLAHI **Appellant**

-and-

HABIB CONTEH **Respondent**

(Purported Attorney for Mrs Asmau Ahmed Abokie)

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.....

Mrs Z D Kamara of Counsel and FI Bockarie of counsel for the Appellant
Mr ET Koroma of Counsel and Mr D Koroma for the Respondent

Hearing date: 30 March 2026

.....

APPROVED RULING

.....

We direct, that copies of this version as handed down may be treated as authentic.

The Honourable Mr Justice Adrian Fisher J: (Giving the Judgement of the Court)

1. This is an appeal against the decision of the High Court, to which all members have contributed equally, on an application that is concerned with matters that were the subject of a ruling by the High Court dated the 5th day of November 2025, in which the learned trial judge entered judgement in favour of the Respondent to this appeal.

2. The appellant then filed a notice of appeal dated 9th November 2025, raising a number of grounds of appeal, which we shall deal with in due course.

3. By way of a notice of motion dated 6th February 2026, the appellant sought a number of orders, which I shall deal with in due course.

The notice of motion

4. The notice of motion seeks the following orders:

    1. An interim ex parte injunction, restraining the respondent from intermeddling with, holding himself out as having a right to deal with the property situated at 30 Liverpool Street Freetown or in any other way whatsoever, adversely dealing with the said property.

    2. An interim injunction, restraining the respondent from intermeddling with, holding himself out as having a right to deal with the property situated at 30 Liverpool Street Freetown or in any other way whatsoever, adversely dealing with the said property.

    3. An interlocutory injunction restraining the respondent from renting, leasing selling mortgaging or howsoever otherwise called, intermeddling with, holding himself out as having a right to deal with the property situated at 30 Liverpool Street Freetown or in any other way whatsoever, adversely dealing with the said property.

    4. An order directing the Respondent to pay all rents accruing from the property at no 30 Liverpool Street, Freetown, and paid to him subsequent the date of the

judgement of the court below, pending the hearing and determination of this appeal or until further or otherwise ordered.

5. Any further orders that the court may deem fit, and costs.

5. The application is supported by the affidavit of Frederick Ishmail Bockarie, a Barrister and Solicitor of the High Court of Sierra Leone, sworn to on the 6th February 2026, with exhibits attached.

Background facts

6. This appeal arose out of a dispute between the parties with regard to the rights to acquire the property, referred to above, which led to the issuance of a writ of summons by the appellant dated 14th February 2024. The appellant then filed a notice of motion dated 27th February 2024, seeking a number of orders as set out in the notice of motion, including an injunction. The plaintiff then supported the application with an affidavit in support sworn to by Frederick Ismail Bockarie, on the 24th February 2026.

7. The Hon Mr Justice Kamanda JA (as he then was), granted an order dated 1st March 2024, compelling the defendant to lodge the letters of administration taken out in respect of the estate of General Abokie on the 10th December 2021 with the Master and Registrar, with immediate effect amongst other consequential orders.

8. The learned judge further granted an interim injunction dated 12th March 2024 against the defendant.

9. On the 14th March 2024, the defendant filed a notice of motion, praying for a number of orders: It is necessary for me to set out the basis of the motion as it is germane to the outcome of this case. The defendant sought a stay of proceedings pending the hearing and determination of the application amongst other orders, which includes:

    1. That the writ of summons dated 14th February 2024, be struck on and or dismissed for the following reasons:

I. That the plaintiff did not disclose his capacity and in any event lacks capacity to institute the matter.

II. That the action is malicious, frivolous and vexatious.

III. That there is an administratrix of the estate of General Ahmed Abokie Abdullahi – deceased intestate; who ought to have been the 1st defendant in this action.

2. Any further orders the court may deem fit and just in the circumstances.

3. That costs of this application be borne by the plaintiff.

10. On the 20th day of January 2025, the plaintiff filed another notice of motion seeking an order that Commerce and Mortgage Bank who were tenants occupying property, comprising of the estate of General Ahmed Abdullahi Abokie, to pay the rent due in respect of the premises at No 30 Liverpool Street, Freetown into a competitive interest bearing account to be held in its bank, the same to be managed by the solicitors for the parties pending the hearing and determination of the application or until otherwise ordered.

11. On the 27th February 2025, the plaintiff filed an application for a warrant of arrest against the alleged contemnor for failing or neglecting to comply with the orders of the court dated 12th March 2024.

12. The matter was apparently transferred to the Hon Justice Manuella Harding J and on the 5th day of March 2025, the learned Judge gave a number of orders, to wit:

1. That the contemnor is ordered to refund the sum of One Million four hundred and ninety-two thousand five hundred and sixty-eight new leones nLe 1,492, 568.00

2. That both counsel for the parties must jointly open an escrow account at the Ecobank and serve the contemnor and operate the said escrow account.

3. That the repayment or refund ordered in paragraph one must be made by the defendant into this escrow Bank account.

4. That the defendant being gainfully employed he shall by way of giving a security give and sign a personal guarantee towards the repayment of the said sum ordered on paragraph one and submitted to the court through the registrar.

5. That in addition to the orders of the court the defendant' interest in property which he currently occupies at 7 Adrian Drive Hamilton Freetown shall be added as further security to guarantee the repayment of the refund ordered on paragraph one.

6. That the defendant shall in addition, submit all original copies of the vehicle with registration number BIB002, which is a Toyota 4 Runner Jeep, to the Master and Registrar as additional security.

7. That the defendant is ordered not to intermeddle with the said estate of the late General Ahmed Abokie.

8. That defendant or his agents are ordered not to demand, collect or receive rent from Commerce and Mortgage Bank unless ordered by the court.

13. On the 7th day of November 2025, the law firm of Teddy Koroma and Associates wrote to the Managing Director of the Ecobank, seeking closure of the escrow account that was established pursuant to the court order dated 5th March 2026.

14. By letter dated the same day, the law firm of OJP Legal wrote to Teddy Koroma and Associates and informed them that they had prayed for an ex parte stay of execution of the orders of the court dated 5th November 2025. They further informed them that the ex parte application was refused and the court ordered that an inter partes be held after service of the papers on the defendant's solicitors.

15. On the same day, the appellants filed a notice of motion dated 7th November 2025, to the court below, seeking a number of orders, to wit:

1. An interim stay of execution of the orders of the court dated 5th November 2025;

2. That leave be granted to the plaintiff to appeal the ruling or judgement of the court below dated 5th November 2025.

3. That the court grants a stay of execution of the order of the court dated 5th November 2025, pending the hearing and determination of the appeal in the Court of Appeal.

4. Any further orders the court may deem fit and costs

16. On the 9th November 2025, the appellants filed a notice of appeal against the decision of Hon Manuela A Harding J dated 5th November 2025 and relied upon a number of grounds.

17. On the 10th November 2025, the law firm of Teddy Koroma and Associates wrote to the Ecobank insisting that the account should be closed pursuant to the orders of this court and should be complied with.

18. The Hon Justice Manuella Harding J gave a ruling on the notice of motion filed by the plaintiffs.

19. I shall now deal with the application filed by the plaintiff.

<u>The application</u>

20. The notice of motion dated 6th February 2026, is supported by the affidavit of Frederick Ishmail Bockarie, a barrister and solicitor of the High Court with exhibits attached. In summary, he deposed to the following matters, which I would set out where relevant:

    1. That the appellant is the eldest male child of General Ahmed Abokie Abdulllahi who died in Nigeria on20th February 2021, intestate, a devout and practising muslim.

2. That on the 10th December 2021 without his knowledge and or consent the respondent purporting to act on the instructions of Mrs Asmau Ahmed Abokie, one of the wives of General Abokie applied for and obtained letters of administration in respect of the estate of General Abokie from the High Court in its probate jurisdiction.

3. That the Respondent was aware that General Abokie was during his lifetime a devout practising Muslim whose estate ought to and has since his death been dealt with in accordance with Islamic law.

4. That the appellant was unaware that the Respondent had taken out letters of administration in respect of his father's estate until quite recently in early February 2024 after engaging solicitors who conducted a search at the probate registry and discovered the same.

5. That he verily believes that the appellant is the person according to the law of the deceased General Abokie (Mohammedan law) entitled over all other persons to take out letters of administration in respect of his father's estate.

6. That he verily believes that notwithstanding the respondent's knowledge that General Abokie died owning real properties in Sierra Leone which includes property at 30 Liverpool Street, and Murray Town in Freetown, the respondent only declared the sum of Le322,889.090.00 from an account held by General Abokie at Vista Bank Sierra Leone ltd in account number 00-101-051-9-01, in the letters of administration he obtained.

7. That in respect of Real property, realty, the respondent declared the same to be Nil and further declared under the "The declaration of estates value "NIL". The declaration of estate value was declared as nil and that the respondent declared in the oath of intended administrator that whole estate of the said deceased is valued at nLe322,889,090.00.

8. The respondent has since the death of General Abokie been collecting rents, signing agreements in respect of the estate's property at 30 Liverpool Street

and has not accounted for the same to the beneficiaries. The last rent collected by the Respondent from Commerce and Mortgage Bank without accounting for the same is in excess of the sum of USD75000.00.

9. That as a result of the respondent's actions, the appellant caused his solicitors to write and serve upon him a letter dated 6th February 2023 inviting him to a meeting to discuss matters relative to the revocation of the grant he had obtained and to give an account of his dealings with the estate.

10. The respondent failed, refused and or neglected to honour the said invitation or comply with the other terms of the instructions and has not responded to the same till date.

11. That having regard to the matters, the appellant solicitors to commence proceedings.

12. The Hon Mrs Justice Manuella Harding J gave a ruling on the respondent's application which is the subject matter of the appeal. The appeal raises very serious and fundamental questions of law bordering on entrenched constitutional rights and a decision would have material effect on the rights of the parties and on the jurisprudence of Sierra Leone.

13. That a similar application to that being prayed for was granted by the High Court and funds were paid into an interest-bearing account jointly managed by the parties' solicitors' as until based on an order of the High Court the said funds were dissipated by the respondent.

14. That he verily believes that the estate of the deceased General Abokie has been the subject of comprehensive proceedings in the Nigerian Sharia court system.

15. That on the 31st October 2023, the Sharia trial court in Nigeria delivered a ruling sharing the two properties in Sierra Leone between the appellant, his sister and the respondent's principal and her children.

16. That he has been informed by the appellant which he verily believes that the respondent principal Mrs Asmau Ahmed Abdullahi and his siblings are already in possession of properties and/or assets allocated to them enjoying the benefits therefrom.

17. That the respondent's principal Mrs Asmau Ahmed Abdullahi made an application to the Upper Sharia Court of Kaduna on 20th November 2023, to set aside the distribution of the property at 30 Liverpool Street. The application was refused and the court ordered the respondent's principal to pay the appellant and his sister of the same mother the sum of USD$328,124.99 which was outstanding in regard the distribution of the assets comprising the estate of General Abokie either by giving the appellant and his sister the equivalent share from the property and allow the money to the appellant and his sister.

18. That the Respondent's principal and the appellant's sibling born to the same father, filed an appeal dated 30th November 2023 to the Sharia court of appeal in Kaduna against the judgement delivered. On the 6th February 2025, the court gave a ruling striking out the appeal, holding same to be unmeritorious and the distribution of the High Court in respect of assets comprising the estate of General Abokie to the parties was upheld.

19. That relative the failure by the respondent's principal and her children to an application to be filed in Court in Nigeria in a ruling delivered on the 23rd April 2025, the learned judge allocated two properties to the appellant and said his sister whose value however exceeded the amount owed by the said principal and her children, hence the appellant was ordered to pay the excess sum of 157,032,800.00 Naira being the equivalent of USD$95,170 to the same as soon as it was practicable.

20. That the appellant paid the said monies to the principal on the 3rd June 2025. That the respondent's principal and her children have since taken possession of the property allocated to them by the Nigerian Sharia Court.

21. The Respondent's principal and her children filed an appeal before the Court of Appeal in Nigeria on 27th February 2025 which they later abandoned and was struck out on 3rd December 2025.

22. That having regard to the facts deposed to and the various from the Nigerian Courts, it is evident that the estate of General Abokie Abdullahi have been distributed in accordance with his personal law, with all the beneficiaries enjoying benefits save for the property at 30 Liverpool Street which the respondent and his principal have been principally interfering with, despite the property being allocated to the appellant and his sister.

23. That he verily believes that the matters stated in the preceding paragraphs permitting the principal to administer the estate of General Abokie would authorise her to mortgage the property, sign long leases dissipate the proceeds realised from the property and materially encumber the property at 30 Liverpool Street to the adverse and material detriment of the appellant and his sister.

24. That the provisions of law permitting the Respondent's principal to administer the estate of General Abokie, pending the determination of the appeal would occasions material illegality and perpetuate injustice.

25. That the matters raised in this appeal are serious issues which should necessitate the grant of this application as damages would not be an adequate remedy and the balance lies in preserving the interest of all parties in the matter pending the hearing and determination of the appeal and that the respondent and his principal be restricted from dealing with the same.

26. That the current tenant has vacated the property and moved to other premises. Given the appellant's interest in the property, he does not wish the

respondent to do anything that would create any encumbrance and complicate recovery of the same after the determination of the pending appeal.

27. That the respondent has since collected the rent paid to them with respect to the judgement of the High Court that forms the basis of the appeal.

28. That the respondent's principal has taken possession of and is enjoying her share of the estate in Sierra Leone granted to her and her children.

29. An undertaking as to damages has been executed in regard to the application for injunctive relief.

21. The defendants filed an affidavit in opposition which I shall now consider.

The affidavit in opposition

22. The affidavit in opposition was sworn to by Stephen J Conteh. In summary he deposed to the following matters:

1. That he is an associate in the law firm of Teddy Koroma and Associates Solicitors and is duly authorised to make the affidavit. The matters st out in the affidavit in support are denied, disputed to the extent of the matters set out in the affidavit.

2. That the ruling of the 5th November 2025 conclusively determined the proper administration of the estate of the late Gen Ahmed Abdullahi Aboke in accordance with applicable law, affirming the entitlement of the surviving spouse, Mrs Asmau Abdullahi Abokie to act as administratrix of the estate.

3. That the notice of motion is purely interlocutory and seeks to restrain dealings with property forming part of the estate and to compel payments of rents purportedly derived from the said property pending determination of the substantive appeal.

4. That it is manifest from the terms of the said application that the reliefs sought are not intended merely to preserve the status quo but are designed to overturn or suspend the effect of the judgement appealed against, thereby circumventing the ordinary course of appellate review.

5. That the appellant's motion by its very nature and formulation does not merely seek protective relief. Rather it is an attempt to obtain in advance of appellate determination, benefits which are the subject matter of the substantive appeal. And in doing so, improperly seeks to adjudicate issues already conclusively addressed by the High Court namely the identity of the party legally entitled to administer the estate and the authority of the respondent to act as an agent pursuant to a duly executed power of attorney

6. That it has been judicially recognised and explicitly found by the High Court that the respondent acts purely under the instructions and authority of Mrs Asmau Abdulalahi, the surviving spouse and administratrix of the estate and that any acts undertaken by the respondent are within the scope of that agency.

7. That consequently any interlocutory relief sought against the respondent is misdirected, in appropriate and incapable of addressing the substantive rights determined by the court.

8. That a careful examination of the affidavit in support of the motion demonstrates that the appellant has failed entirely to establish that the appeal will be rendered nugatory should the reliefs sought be refused.

9. That there is particularly no evidence before the court demonstrating the existence of any imminent sale, pending mortgage, subsisting lease negotiation or any other act capable of permanently defeating the appeal nor is there any indication of urgency or irreparable harm that would warrant the extraordinary remedy of interlocutory injunction.

10. That the so-called fears expressed in the affidavit in support are entirely speculative, conjectural and hypothetical in nature they fail to satisfy the well-established threshold for the grant of interlocutory injunctions pending appeal, as the appellant has not demonstrated a real imminent or irreparable risk to the estate or the interest of the parties involved.

11. That the High Court has already considered similar arguments at the substantive stage and rejected procedural irregularities and technical objections advanced by the appellant, highlighting that the current motion representation an attempt to relitigate issues conclusively addressed by the court rather than a genuine application for preservation of the status quo.

12. That the appellant's complaints relating to the collection of rent from the estate property are historical and retrospective in nature, and injunctions are not issued to remedy alleged past wrongs, such matters are properly the subject of consideration in the substantive appeal where any alleged irregularities can be appropriately assessed and remedied if necessary.

13. That the balance of convenience plainly does not favour the grant of the orders sought by the applicant. Granting the injunctive reliefs would effectively suspend the operation of the judgement appealed against and confer upon the appellant the very benefits sought in the appeal

Submissions of the parties.

23. I have taken fully into account the submissions of Mrs Zainab Dura Kamara for the appellant and Mr ET Koroma for the defendant. These have been fully set out in the record of proceedings

24. It is however appropriate and necessary that I set out the legal basis and the parameters that this court would employ in dealing with this application.

The relevant law

25. The Constitution of Sierra Leone, Act No 6 of 1991, provides the basis upon which appeals are heard in this court. Section 128(1) sub rule 3 of the said Constitution provides:

(3) Subject to the provisions of subsection (1) and (2) of section 122 of this Constitution, the Court of Appeal shall be bound by its own previous decisions and all Courts inferior to the Court of Appeal shall be bound to follow the decisions of the Court of Appeal on questions of law.

26. The Court of Appeal Rules 1985 provides the practice and procedure governing appeals in this court. I am particularly concerned in this appeal with Rules 31 and 32, which are essentially the general powers of the court to make orders or give any judgement that ought to be made.

27. Most importantly, rule 31 of the Court of Appeal Rules 1985, provides the power for this court to grant any injunction which the court below is authorised to make or grant and may act as a court of first instance, having assumed jurisdiction of the entire proceedings.

28. In deciding whether to grant an injunction, the court must consider whether it is just and convenient to grant the order sought. The general principles underlying the grant of an injunction have been set out in the case of American Cynamide v Ethicon 1975 A.C. 396. The court held in that case that so long as an action was not frivolous or vexatious the only substantial factor the court considers is the balance of convenience.

29. The court must consider whether there is a serious issue to be tried and in which way the balance of convenience lies. The court must also consider whether damages are an adequate remedy for the plaintiff. I have had regard to the decision of a differently constituted panel of this court in **Saio Kamara v Freetown City Council (Civ App 172023) 2025 SLCA 2 (29 May 2025)**, in which the

appellant had sought injunctions, pending the hearing and determination of the appeal.

30. In that matter this court considered whether it should grant an injunction in the first place and referred to the cases of Mohamed Bai marrow Kamara and Rob Sayie cases which adopted the principles of the American Cyanamid case. Further in the case of **Henneh Watfa v Alhaji Sanu Barrie Civ App 62/2005**, Gelaga King JA had this to say:

"Lord Diplock's guidelines (in the American Cyanamide case) which I accept and adapt may be summarised as follows:

1. Has the applicant shown that there is a serious question to be tried?
2. Is there doubt as to whether the remedies respectfully available to the parties in damages would be adequate?
3. Where does the balance of convenience lie?

31. These principles would have to be applied in determining whether injunctive relief should be granted in this case. Notwithstanding, injunctive relief falls squarely within the unfettered discretion of the court which can only be exercised based on an analysis of the facts which would inevitably vary in accordance with specific facts of the case, the affidavits filed and other relevant evidence to arrive at a reasoned conclusion.

32. I need to deal with another aspect of this case. The central issue in the case is the question of the imposition of an injunction which raises the issue of a non-**proprietary freezing order.** This amounts to an application for an **interim injunction** for a non-proprietary freezing order, that restrains a respondent from disposing of, dealing with, or dissipating their own assets, without asserting that those assets are the applicant's property. In the case of Isabel Dos Santos v United S.A. 2024 EWCA Civ 1109, the Court of Appeal held that to obtain a non-proprietary freezing order, an applicant needs a "*good arguable case*" on their

underlying claim, meaning "*one which is more than barely capable of serious argument, but not necessarily one which the judge considers would have a better than 50 per cent chance of success*".

33. Upon a review of the test set out in the American Cyanamide case, it appears to be the case that there is no difference between the "*good arguable case*" test for a non-proprietary freezing order, and the "*serious issue to be tried*" test from the *American Cyanamid* case for most interim injunctions, which are popularly referred to as ("**American Cyanamid Injunctions**"). Both refer to a case which has a "*real prospect of success*".

34. The court concluded that the relevant test for obtaining a freezing injunction is now the same as the test for interim injunctions generally, the question is whether there is a serious issue to be tried.

35. It is necessary at this stage to consider briefly, albeit in summary form, the nine grounds of appeal which are exhibited as Exhibit G.

The grounds of appeal

36. These grounds of appeal may be summarised as follows:

    1. The learned judge erred in law and misdirected herself in proceeding to hear and determine the full or substantive matter before the court without pleadings (defence and/or counterclaim) being filed by the Respondents, directions being granted in the action and or a trial being proceeded with and granting orders determining the full rights of the parties at a stage where there was only an interlocutory application to principally set aside the writ of summons before the court.

    2. That the learned judge erred in law and misdirected herself in holding and ordering that the respondent is the only surviving spouse of the deceased and was therefore ordered to administer the estate of the deceased in accordance with the Devolution of Estates Act 2007.

3. That the learned judge erred in law and fact in holding that the evidence before the court that letters of administration had been taken out by Mrs Asmau Ahmed Abokie before the action was commenced thereby arriving at a flawed determination.

4. That the leaned judge erred in law in her conclusion that the capacity in which the appellant brings the action was not indorsed in the writ of summons allowing herself to be swayed by such erroneous conclusion to inform her judgement.

5. The learned judge erred in law and in fact in holding that the defendant before her, Habib Conteh was not a proper party in the action and striking her out as a defendant.

6. The learned judge erred in law in proceeding to strike out the name of the respondent from the action without any order in regard to the substantive action itself thereby materially adversely affecting the appellant's ability to effectively pursue his case and/or extinguishing the appellant's case.

7. The learned judge erred in law in holding as follows:

"All monies paid by Mr Habib Conteh into an escrow account by virtue of Manuella Aina Jennifer Harding (Judge) is to be immediately refunded to the defendant herein after the deduction of all costs incurred by the defendant as a result of this action and costs ordered by the court."

8. That the judgement or decision of the learned judge was arrived at per incuriam.

9. That the decision or judgement of the learned judge is against the weight of the evidence.

37. The task of this court at this stage of proceedings is to take a cursory look at the grounds of appeal in a bid to determine whether they raise serious issues, such that

an injunction is necessary pending the hearing and determination of the substantive appeal.

Serious issue to be tried

38. I do not wish at this stage to address issues of evidence on the affidavits as these are matters to be dealt with at the trial of the substantive appeal. I do not also intend to comment on the strength of the evidence on either side. Suffice to say, in determining whether there is a serious issue to be tired, the court must have regard to whether the plaintiff's claims as disclosed in the writ of summons, are frivolous or vexatious and in any event, must have some prospect of succeeding, as was set out in the case of Re Cable 1975 1 WLR 7 and Smith v ILEA 1978 1 All E.R.411). The court held:

"It is no part of the court's function at this stage to try to resolve conflicts of evidence on affidavits as to fact on which the claims of either party may ultimately depend nor to decide difficult questions of law which call for detailed arguments and mature considerations. These are matters to be dealt with at trial', in this case {the substantive appeal} emphasis mine.

39. Having considered the ground of appeal, I am satisfied that serious questions of law have been raised that require a determination by this court. In particular, the provisions of section 9(2) of the Mohammedan Marriage Act cap 96 of the Laws of Sierra Leone, provides as follows:

"that the eldest son of the intestate, if of full age and according to Mohammedan law".....

40. The appellant argues that section 9(2) of CAP 96 is in full force and effect in relation to the Devolution of Estate Act 2007 and the learned judge ought not have made such a pronouncement in order 2 of her ruling that Mrs Amau Ahmed Abdullahi is ordered to administer the estate pursuant to the Devolution of Estates Act 2007. This was an issue highlighted by the learned trial judge in her ruling and it is an issue of law that requires a definitive determination from this court and to that extent this

section of the grounds of appeal, notwithstanding the other grounds raised, raises serious question. In determining this issue, this court would bring greater clarity to the law in such situations where there are apparent conflicts in legislation.

Damages as an adequate remedy

41. On the question of whether damages would be an effective remedy, the appellant argues at para 31 of the affidavit that damages would not be an adequate remedy. No reasons were given as to why damages would not be an adequate remedy. I have had regard to the decision of the House of Lords in R v Secretary of State for Transport Ex p Factortame Ltd (No 2) 1991 1 AC 603, where the House of Lords reaffirmed the American Cyanamid principles and Lord Bridge had the following remarks:

"Questions as to the adequacy of an alternative remedy in damages to the party claiming injunctive relief and of a cross undertaking in damages to the party against whom the relief is sought play a primary role in assisting the court to determine which course offers the best prospect that injustice may be avoided or minimised". The court went further to state at page 683 that a fundamental principle is that the court should take whatever course appears to carry the lower risk of injustice if it should turn out to have been the "wrong" course — in the sense that the court either grants an injunction which should have been refused or refuses to grant an injunction that should have been granted,

42. On the question of damages being an adequate remedy, Lord Diplock in the American Cyanamide case had this to say:

"the governing principle is that the court should first consider whether... he would be adequately compensated by an award of damages for the loss he would have sustained as a result of the defendant's continuing to do what was sought to be enjoined between the time of the application and the time of the trial. If damages in the measure recoverable would be [an] adequate remedy and the defendant would be in a financial position to pay

them, no interim injunction should normally be granted, however strong the plaintiff's claim appeared to be at that stage.

43. One issue this court would have to weigh carefully is the enforcement of any damages that may be subsequently ordered. I have had regard to the orders of the Hon Justice Manuella Harding J dated 5th March 2025 and noted that the learned judge ordered the following:

    1. refund the sum of One Million four hundred and ninety-two thousand five hundred and sixty-eight new leones nLe 1,492, 568.00 into the escrow account.

    2. That defendant' interest in property which he currently occupies at 7 Adrian Drive Hamilton Freetown shall be added as further security to guarantee the repayment of the refund ordered.

    3. That the defendant shall in addition, submit all original copies of the vehicle with registration number BIB002, which is a Toyota 4 Runner Jeep, to the Master and Registrar as additional security.

44. These are extraordinary orders granted by the learned trial judge, which may arguably lend credence to a suggestion that the learned trial judge was concerned that the defendant's possible inability to repay the sums ordered and consequently additional measures were needed to ensure compliance. I therefore do not consider damages would be an adequate remedy in this case where extensive measures would be required to enforce the damages with no guarantee of success.

45. In **Bath and Northeast Somerset DC v Mowlem plc [2004] EWCA Civ 11**, the Court of Appeal upheld the injunction, and held that it may be difficult to assess the totality of any likely loss before the event and that such an assessment:

"may prove in the event not to give rise to adequate compensation, so that to leave a party to a claim in damages may mean that it will suffer loss which the grant of an interlocutory injunction would completely avoid".

The balance of convenience

46. Having concluded that there are serious issues to be tried, and that damages would be an inadequate remedy, this court then has to consider where the balance of convenience lies. In considering this matter, the court is required to analyse two key questions:

    1. Are damages an adequate remedy for the plaintiff and is the defendant able to pay them? If damages are an adequate remedy, an injunction will be refused.

    2. Is the undertaking as to damages, adequate protection for the defendant and is the plaintiff able to honour it? The plaintiff may be ordered to put up some security in case he fails to honour it. Where a court is satisfied on one or both limbs, the injunction will be granted. Where the court is not so satisfied, the court then has to consider the maintenance of the status quo. As a general rule, where the other factors are evenly balanced, the court prefers to maintain the status quo, prevailing before the last change if the plaintiff applies promptly after that change.

47. Another factor the court takes into account in determining where the balance of convenience lies, is the relative strength of the parties' cases. This is the factor of last resort in granting injunctions and is only used if the strength of one case is disproportionate. It must be pointed out that the American Cyanamid principles have a degree of flexibility, and they do not prevent the court from giving proper weight to any clear view which the court can form at the time of the application for interim relief as to the likely outcome of the case at trial. That is particularly so when the grant of an injunction or withholding of interim relief may influence the ultimate commercial outcome.

Disposal

48. There are a number of features about this case that persuades this court to grant an injunction in these proceedings. These can be stated shortly:

1. The apparent inability and failure of the defendant to repay the sum ordered by the court below.

2. The risk of the creation of third-party rights.

49. I am therefore persuaded to grant an injunction in these proceedings as it can easily be enforced by the court as opposed to a damages claim. We also order a speedy hearing of this appeal

50. In the circumstances, the court hereby orders as follows:

1. An interlocutory injunction is therefore granted in terms of the injunction order below.

2. The escrow account ordered to be opened by the Hon Justice Manuella Harding J in her ruling of 5th March 2025 is hereby restored, pending the hearing and determination of this appeal.

3. The Respondent shall repay into the escrow account, as ordered in order 2 (above), the sum of One Million four hundred and ninety-two thousand, five hundred and sixty-eight Leones, received by him as rent from Commerce and Mortgage Bank, within 90 days of the date of this order, in any event no later than the close of business on **24th September 2026**.

4. The property at 30 Liverpool Street Freetown, being a commercial property, shall be managed by solicitors for the parties and in consequence thereof, the said property may be leased or rented to a third party on an annual basis with the proceeds of the rent or lease, after a deduction of 5% each to the solicitors as their fees, shall be paid into the escrow account by both solicitors within seven days of receipt of payment from the third party.

5. The solicitors shall be entitled to withdraw up to 5% of the rent paid, to be used as expenses for the management of the building.

6. The Registrar of this court shall ensure the records of this appeal are settled within 28 days of the date of this order.

7. The parties shall file their written synopsis of arguments and serve upon each other and the court within sixty days of the date of this order.

8. The costs of this application shall be in the cause.

ORDER FOR AN INJUNCTION

PENAL NOTICE

IMPORTANT: -

NOTICE TO THE DEFENDANT

(1) This Order prohibits you from doing the acts set out in this Order. You should read it all carefully. You have a right to ask the Court to vary or discharge this Order. You are advised to seek legal advice from a solicitor of your choice.

(2) IF YOU DISOBEY THIS ORDER YOU MAY BE FOUND GUILTY OF CONTEMPT OF COURT AND MAY BE SENT TO PRISON OR FINED OR YOUR ASSETS MAY BE SEIZED.

An application for an injunction

An application was made on the 6th day of February 2026 by Counsel for the Applicant who applied to this court for an injunction. The court heard the application and read the affidavit listed in Schedule 1, and made the following orders:

IT IS ORDERED THAT:

THE INJUNCTION

1. The Respondent is restrained by way of an interlocutory injunction, whether by himself, his agents, principal, servants, privies, proxies, associates or howsoever called from selling, offering to sell, mortgaging or engaging in any transactions for disposal of the property, or holding himself out as having a right to deal with property situate, lying and being, at 30 Liverpool Street, Freetown pending the hearing and determination of this appeal or further order from this court.
2. A copy of this order shall be served upon the respondent by the appellants, through their solicitors, forthwith.

THE DEFENDANT MUST NOT BREACH THE INJUNCTION AS STATED ABOVE.

COSTS OF THE APPLICATION

The costs of this Application are to be costs in the cause.

VARIATION OR DISCHARGE OF THIS ORDER

The Respondent and all persons unknown who are affected by this order may apply to the Court at any time to vary or discharge this Order but if they wish to do so they must first inform the plaintiff's solicitors in writing at least 48 hours beforehand.

NAME AND ADDRESS OF CLAIMANT'S SOLICITORS

The plaintiffs' Solicitors are: (OJP Legal of 3c Sawi Drive, Off Kingharman Road, Freetown).

INTERPRETATION OF THIS ORDER

1) In this Order the words "he" "him" or "his" include "she" or "her" and "it" or "its".

2) Where there are two or more Respondents then (unless the contrary appears)

(a) References to "the Respondent" means both or all of them;

(b) An Order requiring "the Respondent" to do or not to do anything requires each Respondent to do or not to do it.

THE EFFECT OF THIS ORDER

1) A Respondent or a person who is an individual who is ordered not to do something must not do it himself or in any other way. He must not do it through others acting on his behalf or on his instructions or with his encouragement.

2) A Respondent which is a corporation, and which is ordered not to do something must not do it itself or by its directors, officers, employees or agents or in any other way.

SERVICE OF THIS ORDER

This injunction Order shall be served by the Applicant on the Respondent, FORTHWITH.

SCHEDULE 1.

Affidavit

The Judges read the following Affidavit before making this Order:

1. **Frederick Ismail Bockarie, sworn to on the 6th February 2026.**

The Hon Mr Justice S.O. Taylor JA (Presiding)

My Lords, for the reasons given by my Lord Justice A Fisher J, I agree.

.....

The Hon Mr Justice Simeon Alieu JA

My Lords, for the reasons given by my Lord Justice A Fisher J , I agree.

.....

The Hon Mr Justice AJ Fisher J

.....

The Hon Mr Justice S.O. Taylor JA (Presiding)

My Lords, for the reasons given by my Lord Justice A Fisher J, I agree.

.....

The Hon Mr Justice Simeon Alieu JA

My Lords, for the reasons given by my Lord Justice A Fisher J , I agree.

.....

The Hon Mr Justice AJ Fisher J

COURT OF APPEAL
SIGN
DATE
REGISTRY

.....