CIV.APP.61/2025

IN THE COURT OF APPEAL OF SIERRA LEONE



BETWEEN:

REV.DR. FR. GABREL KOROMA – APPELLANT

AND

SHEIK MOHAMED CONTEH – 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:

Dr. C.M.B. Jalloh Esq – for the Appellant

B.S. Kamara Esq – for the Respondent

JUDGMENT DELIVERED THIS 20th DAY OF JULY 2026

This Appeal was filed in this Court by Rev Fr. Gabriel Koroma, described on the face of the Notice of Appeal as "1st Appellant" and (hereafter called "the Appellant"), on the 16th October 2025, against the Ruling of the lower Court dated the 20th February 2024.

The Appellant's Co-defendant in the lower Court Musa Barrie, albeit described on the said Notice of Appeal as 2nd Appellant, did not by the contents of that process appeal against the said Ruling of that Court.

The grounds of appeal as contained in the Notice of Appeal(uneditted) are as follows:

1. That the Learned trial Judge(hereafter "the LTJ"), erred in law and in fact and misdirected himself by deciding that, the reliefs sought in the Application are not part of and do not reflect the pleadings, as our questions are squarely within our pleadings.

2. That the LTJ misdirected himself in holding that the Application under Order 17 of the High Court Rules 2007 did not resolve the dispute of the Parties

3. That the LTJ failed to properly evaluate and consider the legal consequences of the Letters of Administration obtained by the Respondent, which concerns the legal capacity of the Respondent who commenced an action for the estate of a deceased under customary law

4. The decision of the presiding Judge is against the weight of the evidence.

The reliefs sought from this Court are that:

i). The Ruling of the lower Court dated the 22nd (i suppose he meant the 20th February 2024), be set aside and

ii). The action intituled CC06/23 2023 C. No.2 Sheik Mohamed Conteh(Plaintiff) and Rev. Fr. Gabriel Koroma and Musa Barrie(Defendants), commenced by Writ of Summons dated and filed on the 16 March 2023 be stuck out on the basis that, the Plaintiff therein and the Respondent herein lacks the legal capacity to institute the said action and that the lower Court does not have jurisdiction to hear

and determine matters relating to title to land and the Administration of Estates of deceased persons governed by Customary law

iii). That the costs of this Appeal and those in the lower Court be borne by the Respondent.

BRIEF FACTS.

The substantive action still pending in the lower Court was commenced by a writ of summons dated and filed on the 16th March 2023, at the suit of the Respondent herein, holding himself out as Administrator of the estate of his deceased brother Brima Roke Conteh(hereafter "the intestate") against the Appellant herein and a Musa Barrie. The claims as set out in the said Writ of Summons are as follows:

i). Recovery of possession of land situate lying and being at Makeni Lunsar Highway Magbenteh Village Makeni City Makarie Chiefdom Bombali District in the North East province of the Republic of Soerra Leone.

ii). An interlocutory injunction restraining the Defendants, their Agents, proxies, servants, privies or howsoever called from interfering with, working, selling, transfering leasing or disposing of the said land or any potion of same pending the hearing and determination of the said action.

iii). Perpetual injunction restraining the Defendants, their agents servants privies or howsoever called from interfering, selling, transferring, leasing or disposing of the said land or any portion of same.

iv). Cancelation of any document whether site plan, sales agreement or title Deed the defendants purport to have for the said land.

v). Any other further Order as the Court may deem fit and just in the circumstances.

vi). Costs.

The defendants therein and Appellant herein, by their Counsel entered an Appearance and gave Notice of that Appearance on the 22nd March 2023. On the 20th May 2023, they filed a defence and Counterclaim dated the 19th May 2023.

The Plaintiff On the 15th June 2023, filed a defence to the defendants' Counterclaim, dated the 10th June 2023. On the 3rd October 2023, he filed summons for directions and the said directions as to the conduct of the action, were issued by the lower Court on the 12th October 2023, ordering both parties to exchange bundles, inter alia containing their pleadings, list of witnesses and their Statements, legal authorities and documents they intend to use and rely on at the trial. The matter was adjourned to the 26th October 2023 for hearing.

From the Records of appeal, the Plaintiff therein and Respondent herein, complied with the directions of the lower Court and filed his court bundle and served same on the defendants through their Counsel. The Defendants however defaulted in filing and service of their Court bundle.

Consequent upon their default aforesaid, the Plaintiff on the 10th November 2023, took out an Appellation in the lower Court inter alia praying that, the Defendants therein's' defence and Counterclaim be struck out for non compliance with the directions of the Court and for all the reliefs sought in their Writ of summons be granted.

Before the hearing of the above Application of the 10th November 2023, the defendants therein filed an Order 17 Application, for the matter to be determined on points of law, based on the answers to questions posed in the said Application.

I note that, the action in the lower Court, as it now seems to be the norm at the bar, was replete with otherwise avoidable interlocutory Applications, with the resultant hardship t

on the litigants and the annoying derailment of the course of the proceedings in that Court. Issues that can be discussed and resolved between Counsel are now frequently the subject matter of vexatious Applications, because Counsel do not want to talk to each other. What informs the dearth of fraternity at Bar these days is beyond me. It is highttime therefore that Courts took a dim view on this hostile and egoistic practice, by mulching Counsel with personal costs for such malafide and time wasting Applications.

By a Ruling dated 20th February 2024, the LTJ declined to answer the questions posed in the Appellant herein and Defendants therein's Application of the 21st November 2023 and ordered the substantive action to proceed to trial.

It is that Ruling that is now the subject matter of this interlocutory Appeal, filed way out of the time prescribed in Rule10 (1&4) of this Court's Rules by long strech, with the leave of this Court.

This is how the Parties got to us.

SUBMISSIONS BY COUNSEL FOR THE APPELLANT.

Learned Counsel for the Appellant Dr. C.M.B.Jalloh esq, in prosecuting this Appeal, filed written synopsis of arguments, which more or less reproduced the grounds of appeal, with relevant authorities attached and orally addressed us. He relied on the entirety of his synopsis and made the following submissions:

That an Order 17 Application is not intended to resolve disputes between Parties on facts, rather it is meant to resolve matters on points of law. Therefore His Lordship the LTJ misdirected himself in holding that, the Application that was before him could not resolve the dispute between the Parties.

Counsel also argued that,the lower Court is devoid of jurisdiction to hear and determine the substantive action pending in that Court, as it inter alia seeks to determine title to land governed by Customary law. He cited Sections 15(3)(a) of the Local Courts Act 2011 and 21(a)(i) of the Courts Act 1965 and Cualker Vs. Kangama SC.Civ.App 2/74, cited with approval in CIV.APP12/2006 Mamie Kargbo(as Administratrix of the estate of her deceased father Moray Kargbo) Vs. Saio Turay and ors, in support of that averment.

He furthered that, the matter also relates to the Administration of an estate governed by Customary law, in respect of which by èSection 21(b) of The Courts Act 1965, the probate division of the High Court is devoid of jurisdiction to grant Letters of Administration.

By reason of the foregoing learned Counsel contended that, the Respondent who took out letters of Administration from the probate division of the High Court, lacks

capacity to institute the substantive matter in the lower Court and His Lordship the LTJ failed to properly consider the effect of those Letters of Administration issuing from the said Court.

Learned Counsel concluded his submissions by urging this Honourable Court to set aside the Ruling of the lower Courtt dated the 20th February 2024, which Counsel consistently misdated as 22nd February 2024, in all his processes filed in this Court inclusive of his Notice of Appeal and synopsis

That the substantive action in the Court below intituled by CC06/23 C.No.2 Sheik Mohamed Conteh(Plaintiff) Vs. Rev. Fr Gabriel Koroma and Musa Barrie(Defendants), be struck out for want of jurisdiction on the part of the Court and capacity on the Part of the Respondent herein as Plaintiff therein.

SUBMISSIONS BY COUNSEL FOR THE RESPONDENT.

On his part, learned Counsel for the Respondent B.S.Kamara esq also filed synopsis of arguments with relevant legal authorities attached and made oral submissions before us.

In his synopsis filed herein, he took us through the proceedings in the High Court, leading to the Ruling of that Court, dated the 20th February 2024, the subject matter of this Appeal and which he also consistently misdated the 21st February 2024.

In his submissions he contended inter alia that:

Title to the land in dispute had long been determined by the Safrokoh Local Court as far back as 2005, between the Appellant herein Rev Fr. Gabriel Koroma and the Intestate Brima Roke Conteh, on whose estate's behalf the Respondent purports to act. That the said Local Court entered judgement in favour of the Appellant herein, which judgement was reviewed by The Customary Law Officer A.S. Alieu, as he then was.(hereafter "the CLO"). The CLO set aside the Local Court's judgement and entered one in favour of the Respondent herein. And that the said review has never been challenged by the Appellant herein and same is still subsisting.

Therefore Counsel argued that, title to the disputed property was nolonger in issue between the Appellant and by extension all those claiming under, by or through him and the Intestate's estate and by extension the Respondent herein purporting to represent the said estate. And that the substantive matter in the lower Court is not about title, but for the recovery of possesion of the suit land and injunctive reliefs, over which claims, the High Court is exclusively seised of jurisdiction.

On Counsel for the Appellant's contention that, the CLO's review had been quashed by an Order of the High Court, delivered by the late Hon. Justice P. O. Hamilton JA as he then was, on an Application for Judicial review, on the basis that, as at the time the CLO conducted the review, there was a pending Appeal/petition in the Bombali District Appeals Court against the the judgement reviewed. Counsel for the Respondent submitted that, there is absolutely no evidence of such judicial Review. Both the purported Order quashing the CLO's review Report and even the Application for the said judicial review have never been made available to the Court below or this Court.

Counsel further submitted that, all the grounds of Appeal save the omnibus ground, offend Rule 9(2) of this Court's 1985 Rules, being that the errors of law and misdirections alluded to in the said grounds are not Particularised. He therefore urged the Court to invoke the powers conferred on it by Rule 9(4) of the said Rules and strike out those grounds. He also relied on this Court's ratio in Civ.App11/2022 Patrick Robert Joseph Macualey Vs. Aminata Macualey.

Alternatively, Counsel argued that, THE LTJ was right in holding that the questions posed by Counsel for the Appellant in his Order 17 Application to the lower Court do not relate to his pleadings filed in that Court. He reffered us to the Defence and Counterclaim filed by the Appellant and his Co-defendant in that Court, which could be found at pages 93 to 94 of this Court's Records and to juxtapose that with the questions posed in the Appellant's Application of the 21st November 2023.found at pages 166 to168 of the Records. He maintained that,it is obvious the former has no bearing to the latter. And that the questions raised were drawn outside the Apoellant's pleadings and therefore do not meet the test laid out in Korso Finance Establishment Anstalt Vs Wedge CA 94/387.

On the second ground, Counsel submitted that, the defence and Counterclaim filed by the Apoellant herein raised triable issues that would not be resolved by the answers to the questions posed. Issues like the quashing of the CLO's review Report, the filing and subsistence of a Petition in the District Appeals Court etc, all of which are disputed by the Respondent in his Reply and Defence to the Appellant's Defence and Counterclaim. Counsel further reffered us to MISC.APP 4/2017 Betty Mansaray and 16 ors Vs. Marie Kamara- Williams and ors, where it was held that, a determination on a point of law is not suitable, where there are facts in dispute. See Order 14A(1-2)/5 of the annual practice 1999.

On the Respondent's capacity to institute the substantive action in the lower Court, Counsel contended as follows:

That firstly, the subject matter of the substantive action in the Court below is neither title nor is it about the administration of an estate governed by Customary law. He said the action is about the recovery of possession of land fraudulently converted by the Appellant and incidental injunctive reliefs and in respect of which the High Court is not only seised of jurisdiction, but exclusively so seised. Counsel therefore submitted that, the preclusive provisions of Sections 21(1)(a) &(b) of The Courts Act 1965 and 15(3) of The Local Courts Act 2011 are inapplicable.

That secondly, by Temne Customary law in Bombali Sebora Chiefdom, the estate of a deceased person automatically devolves to the family of the deceased and vested in the eldest surviving brother of the deceased, who holds same for and on behalf of the family.

Therefore the Respondent herein being the eldest surviving brother of the Intestate Brima Roke Conteh need not abtain Letters of Administration to initiate the substantive action in the Court below, as he is by temne customs and tradition, the natural heir to his deceasrf brother's estate. And that the Letters of Administration issued by the Probate Division of the High Court, were taken out by the Respondent out of an abundance of caution.

He reffered us to Section 1 (3) of The Devolution of Estates Act 2007, that says the said Act does not apply to family or community property held under customary law.

Learned Counsel concluded on this that, the Appellant should not be allowed to use a statute as an instrument of fraud. That after converting the

Respondent's land,, the Appellant now wants to use a Statute to forestall the action against him in the lower Court. This Court being a Court of equity as well, should not Contenance such conduct.

AN ANALYSIS OF SUBMISSIONS OF BOTH COUNSEL AND THE EVIDENCE AVAILED US.

I will start my appraisal of Counsel's submissions and the evidence before us, with the very process leading to the filing of this Appeal. An Order 17 Application if granted and the matter determine on the questions posed, the outcome is a final judgement and an appeal lies as of right. However, if the Application is refused and the court orders a full trial as in the instant case, such Order/Ruling refusing the Application is interlocutory and an appeal to this Court against same, lies only with the leave of the Court below or this Court.

From the foregoing, the Ruling of the 20th February 2024 appealed against by the Appellant herein, was an interlocutory one, as the substantive matter is still pending in that Court. Therefore recourse to this Court against that Ruling could only be had with the leave of the Court below or this Court. The said leave was purportedly granted by this honourable Court, in its Order of the 8th October 2025, on an Application filed in that behalf on the 5th April 2024.

Prior to the filing of the Application aforesaid in this Court, the Appellant had filed and rightly so, an Application for the same leave in the lower Court, dated the 1st March 2024. I said rightly so because, that Application was filed within the period prescribed in Rule 10(1) of this Court's Rules.

The Appellant however abandoned the said Application of the 1st March 2024 in the lower Court and filed similar Application in this Court, on the 5th of April 2024, some forty five days after the Ruling of the 20th February 2024, without an Order enlarging the time limited in Rule 10(4) of the Rules of this Court or at least included a prayer for such enlargement of time, on the face of his Application to this Court..

Rule 10(1&4) of the Court of Appeal Rules 1985 state thus:

10(1). "Where an appeal lies by leave only, any person desiring to Appeal, shall apply to the Court below or to the Court, by notice of motion within fourteen days from the date of the decision against which leave to appeal is sought, unless the Court below or the Court enlarges the time"

10(4): "No Application for enlargement of time within which to apply for leave to appeal shall be made after the expiration of fourteen days from the expiration of the time prescribed within which an Application for leave to appeal may be made"

Further, the amending Rules of 2003, Constitutional Instrument No.1 of 2003 provide thus:

"Where an appeal lies by leave only, any person desiring to Appeal shall apply to the Court below or to the Court by notice of motion within fourteen days from the date of the decision against which leave to appeal is sought or pursuant to Rule 64, to the Court by notice of motion within fourteen days from the date of the refusal by the Court below unless the Court below or the Court enlarges the time"

Rule 64 cited in the amending Rules provides that:

"Except where otherwise provided in these Rules or by any other enactment, where any application may be made either to the Court below or to the Court, it shall be made in the first instance to the Court below, but if the court below refuses the application, the Applicant shall be entitled to have the application determined by the Court"

From the foregoing, it is apparent that, the sole purpose of the amending Rules of 2003, is to underscore the sequence of Application for Leave to Appeal and to vitiate the eitherto misconception that, such sequence is discretionary.

His Lordship in this Court sitting alone, entertained the Appellant's Application of the 5th April 2024, on the basis that, there had been constructive refusal by the lower Court, by reason of inordinate delay in hearing and determining the application before that Court. He cited the ratio in CIV..APP13/2024 Leone Oil Company Vs. Jaffer Zaghir, that set out two instances of constructively refusal by

the lower Court namely: where leave is granted with onerous terms or where the lower Court inordinately and purposefully delayed the hearing and determination of the Application before it

The application to that Court was filed on the 1st March 2024 and the one to this Court on the 5th April 2024. Meaning the application in the lower Court had only been pending in that Court, for one month four days. Without any pretensions of searching his Lordship's conclusion in that regard, I'm at a loss as to how a month and four days constitutes an inordinate delay, having regard to the case load of judges in this jurisdiction and the fact that, His Lordship himself determined the Application before him, filed on the 5th April 2024, on the 8th of October 2025, some one year six months after it's filing

As already stated above, i will not enquire into His Lordship's appreciation of inordinate delay. What i am however at odds with, is His entertaining the application of the 5th April 2024,without an Order for an enlargement of time within which to make that application or at least a prayer on the face of the said Application seeking such extension of time. That in my view, was in contravention of Rule 10(4) aforementioned as amended by Constitutional Instrument No. 1 of 2093,. That Rule is mandatory by reason of the use of the word "shall" and the prescription of a penal consequent in the event of default. For the avoidance of doubt, i am by no mean advocating mindless adherence to our rules of court. I would have had no issue, if the extension of time was applied for outside the time prescribed in Rule 10(4) and granted. What is not permissible however, is the Appellant filing an Application for leave to this Court, outside the time limited in the said, without obtaining an extension of time or at least an Applicarion for such enlargement of time within which to do so. I consider that missteps as deliberate and a procedural overreach.

I am not oblivious of the fact that, this Court binds itself. However, where a justice of this Court sits alone, the full compliment of the Court could depart from a decision of the single judge. In effect i hold that, the Order or Ruling of the 8th October 2025 granting the Appellant leave to appeal, was made per incuriam.

Respecting the capacity or Locus standi of the Respondent to institute the substantive matter in the lower Court, i am in absolute disagreement with Counsel for the Respondent that, the Respondent can do so without letters of Administration, in view of the fact that, the property in issue devolveed to the family of the Intestate Brima Roke Conteh upon his demise and that by Temne Customary law in Sebora Chiefdom, the eldest surviving brother is suited to act on behalf of the said estate, as individual ownership of land is foreign in the provinces.

It seems to me that, learned Counsel is a staunch proponent of Chief Justice Rayner's 1896 Report on land tenure in West Africa, in which he inter alia stated that, individual ownership of land is foreign to native ideas and that land under customary law belongs to the family or the community.

This position of the learned Chief Justice has justifiably come under very fierce criticism from eminent African jurists including professor Ollenu and Betsy Enchill of Ghana and our own Dr. Renner-Thomas. Courts have also consistently held that, that notion is not only obsolete, but disrespectful of Customary law, as it seems to suggest that, Customary law is static. Individual tenure is therefore now prevalent in the provinces, especially in cosmopolitan settings like Bo, Makeni, kenema, koidu etc.

By reason of the foregoing, the disputed land situate at Makeni/Lunsar Highway Magbenteh Village, makeni city, Makarie Chiefdom Bombali District in the Nort East province of the Republic of Sierra Leone is a personal property and upon the death of the owner, it should devolve to his estate and not his family.

Also the Temne Customary practice that designate the eldest surviving brother of the deceased as next of kin, is not intended to obviate the provisions of Sections 21(b) of The Courts Act 1965 and 15(3)(c) of the Local Courts Act 2011. These are Statutes that apply to the provinces and by Section 76(1) of the Courts Act 1965, any conflict between a Statute that applies in the province and a Customary law, the former takes precedent.

In the circumstances, I agree with Counsel for the Appellant that, the Respondent is bereft of any capacity and/or Locus standi to institute the substantive matter in

the lower Court as Administrator of the estate of the Intestate his deceased brother, being that, the letters of Administration issued him by the Probate Division of the High Court on the 5th February 2023, are ineffectual, as the said Court lacks jurisdiction to administer the estates of deceased natives situate in the provinces. (See Sections 21(b) of The Courts Act 1965 and 15(3)(c) of the Local Courts Act 2001). That jurisdiction is conferred on the Local court of the chiefdom, where the estate is situate.

In the same vain, I disagree with the Appellant's Counsel that the substantive matter in the lower Court, relates to title. But for the Respondent's lack of capacity, he could have legitimately brought that action in the lower Court, albeit without prejudice to the outcome, which would have been subject to the evidence availed that Court

My attention is also drawn to the Judgement of the. Safronkoh Local Court between the Appellant herein Rev. Fr. Gabriel Koroma and the Intestate Brima Roke Conteh, dated the 13th June 2005, relative to title to the land in dispute and the Customary Law Officer's Review of same dated the 9th August 2005.

I also note with rapt attention, the assertions by Appellant's Counsel that, the CLO's review had been set aside by the High Court, presided over by His Lordship the Hon Justice P. O. Hamilton JA as he then was and of blessed memories, on the basis that the Intestate Brima Roke Conteh had filed an Appeal to the Bombali District Appeals Court, prior to his Application for review and which Appeal by Section 36 of the Local Courts Act 2011, puts the said judgement outside the purview of the CLO's powers of review conferred on him by Section 35 of the said Act.

I have forage through the Records of Appeal including all the Applications filed in the Court below and to this Court and i found no evidence in support of those assertions. Neither the Appeal/petition alledgedly filed in the District Appeals Court, nor the purported Order of His Lordship P. O. Hamilton now deceased that set aside the CLO's Review Report, could be traced therein. Even the Application for the said Judicial review alledgedly filed in the High Court and which ordinarily is suppose to be in Counsel for the Appellant's file, could not be found in the Records of Appeal. All we have for those assertions, is Counsel's word for it.

I am therefore convinced and I so hold that, there was no Appeal filed by the Intestate Brima Roke Conteh to the District Appeals Court and that the CLO acted within the precinct of his review mandate. Also there is no evidence before us that, the said review was set aside by the High Court on an Application for judicial review.

I read through Counsel for the Appellant's Order 17 Application to the lower Court dated the 21st November 2023 and observed that, the questions posed for determination by that Court,in the said Application, relate to the legibility of the Respondent herein to take out Letters of Administration of the estate of the Intestate, by reason of his failure to exhibit Birth Certificate, as proof of his biological affinity with the Intestate and being that, the intestate is survived by two widows and two daughters. There is no question posed on the jurisdictional competence of the probate division of the High Court to issue out Letters of Administration, in respect of the estates of deceased natives situate in the provinces and the effect of those Letters.

It seems to me therefore that, learned Counsel for the Appellant's submissions on Sections 21(b) of the Courts Act 1965 and 15(3) of the Local Courts Act 2011 are an afterthought.

Learned Counsel for the Respondent's submission that all the grounds of Appeal in the Notice of Appeal filed herein, alluded to errors of law and facts and misdirections. is not representative of the contents of the said Notice of Appeal.

I have perused the Appellant's Notice of Appeal and found that, it is only the first ground that refers to errors of law and facts and failed to particularise the said errors of law.

The second ground alludes to misdirections and the alleged misdirections are particularised therein. The 3rd ground does not reference any errors of law or misdirection and the fourth ground is the omnibus ground.

Finally Counsel for the Appellant submitted that, an Order 17 Application does not resolve factual issues between the Parties, rather it only calls for the determination of the matter on points of law. It has long been settled by a long line of authorities within and without our jurisdiction that, the said position is not always applicable.

This Court in its judgement in the very recent case of CIV.APP4/2022 Benjamin Juxon- Smith Vs.Vincent Lamin Kanu delivered on the 14th July 2026 and relying on the ratio in Misc.App4/2004 Betty Mansaray Vs. Kamara Williams and Margai Vs. Seray Wurie held that,

"If issues remain unresolved after answering the questions posed, then the case cannot be one suitable for determination under Order 17. That where facts are contested, it would usually be unsafe to decide a matter pursuant to Order 17. And that, where the case is replete with many contentious factual issues, the contentious issues need to be resolved first, before the leqal issues posed for determination can be addressed".

What can be gleaned from the foregoing is that, where the factual issues are interwoven with the legal issues, an Order 17 Application is inappropriate in such a situation.

In the instant case, the factual issues raised in the Affidavit supporting the Application in the lower Court and contested in the Affidavit in opposition included the following:

The existent of an Order quashing the CLO's review Report, the pendency of an appeal in the Bombali District Appeals Court, the subsistence of the said CLO'S Review Report, the issuance of the Letters of Administration by the probate division of the High Court, the subject matter of the substantive matter in the Court below ie title to provincial land, the Adminstration of the estate of deceased natives situate in the provinces or mere recovery of possesion of the said land. Etc.

Im my opinion, all of the above factual issues are relevant to the determination of the questions posed in the Application in the Court below. The determination of the said factual issues either way, will impact the outcome of the said Application and by extension the substantive action thereof.

I therefore hold that, the issues raised are contentious and interwoven with the legal issues in the questions posed for determination. They therefore ought to be determined first before any determination of the questions posed.

By reason of all of the above, i hereby find as follows:

FINDINGS:

1.That the Order granting leave to the Appellant to bring this Appeal was obtained per incuriam, being that, there is no Order granting an extension of time within which to make the Application from which the said Leave is resultant.

2.That the Letters of Administration issuing from the probate division of the High Court are ineffectual and a nullity ab initio, being that the said Court is statutorily precluded from Adminstratering the estates of deceased natives situate in the provinces. See Section 21(b) of The Courts Act 1965 and of 15(3) of the Local Courts Act 2011.

Consequently, the Respondent is devoid of the requisite capacity and/or Locus standi to commence the substantive matter now pending in the lower Court.

3.The substantive matter is not for title, as title had long been determined by the Safronkoh Local Court between the Appellant herein Rev. Fr. Gabriel Koroma and by extension all those holding from him and the Intestate Brima Roke Conteh and by extension his estate. Therefore but for his lack of capacity, the Respondent could have legitimately brought the substantive action in the lower Court.

4.lThat the substantive action in the lower Court is replete with a lot of contentious issues as set out above, that are likely to remain unresolved after answering the legal issues raised in the questions posed for determination and therefore unsuitable for an Order 17 application

5.That there is no evidence in support of the assertions that, an appeal was filed in the District Appeals Court by the Intestate against the Judgement of the safrokoh Local Court. And that the CLO'S Review of the said judgement of the Local Court had been set aside by the High Court.

In the absence of such evidence, I hold that the CLO's review of the 9th August 2005 remain extant, valid and subsisting .

In the result and in pursuant to the Appellate jurisdiction of this Court, in particular Rules 31 and 32 of its Rules, i hereby make the following Orders:

1.That the interlocutory Appeal filed herein on the 16th October 2025 against the Ruling of the lower Court dated the 20th February 2024, is hereby dismissed.

2.The substantive matter herein still pending in the High Court is hereby struck out for want of capacity and/or Locus standi on the part of the Respondent.

3.That the disputed land/property situate lying and being at Makeni/Lunsar Highway, Magbenteh Village Makeni City Makarie Chiefdom Bombali District in the Nort East province of the Republic of Sierra Leone, remains vested in the estate of the intestate Brima Roke Conteh, by virtue of the subsisting review Report of the CLO aforesaid and which estate is at liberty to take out Letters of Administrate from the Makarie Chiefdom Local Court and thereafter to obtain appropriate execution processes in enforcement of the said review findings.

4.All dispositions heretofore and hereafter made by the Appellant herein Rev. Fr. Gabriel Koroma of the said disputed land mentioned in 3 above or any portions thereof, are hereby declared null and void, inclusive of but not limited to the sale to his Co-defendant Musa Barrie and a Mohamed Koroma aka oryellow. All instruments evidencing any such disposition registered with the office of the Administrator and Registrar General Roxy Building Walpole Street Freetown are hereby expunged from the books of the said instruments kept in that office

6...By reason of the procedural missteps by both parties here and in lower Court,, I shall make no Order as to costs.

Hon. Mr. Justice A.M.BANGURAH JSC

----------I agree

Hon Mrs Justice JEL King JA

----------I agree

COURT OF APPEAL
SIGN
DATE 20/7/26
REGISTRY

Hon. Mr Justice M.P..Mami JA

