

CC. 426/20245

2025

B.

NO.33

IN THE HIGH COURT OF SIERRA LEONE
(LAND, PROPERTY AND ENVIRONMENTAL DIVISION)

BETWEEN:

MR MOHAMED BORBOR BAH

- PLAINTIFF/APPLICANT

AND

MR MOHAMED T. KHAN

- DEFENDANTS/ RESPONDENT

MR SAMUEL GEORGE

MADAM ISATU

MR MAMOUDU BAH

RUGIATU KANU

COUNSEL

A. AZIZ BAH FOR THE PLAINTIFF/APPLICANT

R.A. NYLANDER FOR THE DEFENDANTS/RESPONDENTS

RULING

HONOURABLE MR. JUSTICE

ABDUL RAHMAN MANSARAY J.

6TH DAY OF OCTOBER 2026

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The Introduction

1. By an Ex Parte Notice of Motion dated 22 September 2025, the Plaintiff/Applicant seeks, inter alia, an interim and interlocutory injunction restraining the Defendants from continuing construction, entering upon, remaining on, disposing of, or otherwise interfering with a parcel of land situated at Peninsula Road, Black Johnson, Western Area, allegedly owned by the Plaintiff pursuant to a Deed of Conveyance dated 13 November 2023 and registered as No. 3037/2023 in Volume 970 at Page 39 of the Record Book of Conveyances maintained in the Office of the Administrator and Registrar-General.
2. The Plaintiff further seeks orders for substituted service of the Writ of Summons and related processes. That order was accordingly granted. The application is supported by the affidavit of the Plaintiff and opposed by the affidavit of the 1st Defendant sworn on behalf of all Defendants. The Plaintiff thereafter filed an affidavit in reply. The issue before the Court is whether the Plaintiff has satisfied the well-established principles governing the grant of interlocutory injunctive relief pending trial.

The Background

3. The Plaintiff claims ownership of the disputed land and alleges that the Defendants have unlawfully entered upon it and commenced construction activities without lawful authority. He contends that the Defendants are trespassers and that unless restrained, they will continue altering the character of the land to his prejudice.
4. The Defendants deny trespassing. According to the 1st Defendant, he purchased the property in or about 2009, caused it to be surveyed, obtained a conveyance, entered into possession, and subsequently sold portions thereof to the other Defendants.
5. The Defendants further assert that the land falls within an area under the jurisdiction of the National Protected Area Authority and Conservation Trust Fund (NPAA & CTF), from whom they obtained authorisation to continue occupation and from whom they received documents recognising their occupation.

6. The Plaintiff contests the validity of the Defendants' asserted title, alleging that the purported conveyance relied upon by the 1st Defendant is neither duly registered nor contained within the records of the Office of the Administrator and Registrar-General. He relies on correspondence allegedly received from that office indicating that the deed referred to by the Defendants does not form part of the official registry records.
7. The Plaintiff further contends that the NPAA & CTF possesses no authority to determine ownership of private land or to confer proprietary rights over land duly surveyed and processed through the Ministry of Lands.

The Issues for Determination

8. The Court considers the following issues: Whether there is a serious question to be tried. Whether damages would constitute an adequate remedy. Where the balance of convenience lies. And whether the justice of the case requires preservation of the status quo pending trial.

The Applicable Law

The Principles Governing Interlocutory Injunctions

9. The law governing interlocutory injunctions is long settled throughout the Commonwealth. The leading authority remains *American Cyanamid Co. v Ethicon Ltd* [1975] AC 396, where the House of Lords held that the Court should not attempt at the interlocutory stage to finally determine disputed rights but should instead consider: whether there is a serious question to be tried; whether damages would be an adequate remedy; where the balance of convenience lies; and whether maintaining the status quo is necessary.
10. Those principles have been consistently applied throughout common law jurisdictions, including Sierra Leone, Ghana, Nigeria and The Gambia. In *Films Rover International Ltd v Cannon Film Sales Ltd* [1987] 1 WLR 670, Hoffmann J reformulated the inquiry by observing that the Court should adopt the course which appears to involve the least risk of injustice.

11. Similarly, the Supreme Court of Nigeria in *Kotoye v Central Bank of Nigeria* (1989) 1 NWLR (Pt. 98) 419 emphasised that interlocutory injunctions exist to preserve rights pending determination and to prevent a successful litigant from obtaining an empty judgment.

Constitutional and Regional Considerations

12. Section 23 of the 1991 Constitution of Sierra Leone guarantees the right to a fair hearing in the determination of civil rights and obligations. Article 7 of the African Charter on Human and Peoples' Rights similarly protects access to justice and effective judicial remedies.
13. The ECOWAS Court has repeatedly emphasised that judicial processes should remain effective and that pending disputes should not be rendered nugatory through unilateral actions taken before final adjudication. These principles reinforce the equitable jurisdiction of the Court to preserve disputed property where necessary.

The Analysis

Whether there is a serious question to be tried

14. The threshold at this stage is intentionally low. The Plaintiff need not prove ownership. He needs only demonstrate that the claim is neither frivolous nor vexatious. The Plaintiff relies on a registered conveyance and alleges that the disputed land was duly processed through the Ministry of Lands and registered at the Office of the Administrator and Registrar-General.
15. The Defendants, however, assert a competing proprietary claim dating back to 2009 and maintain that they have occupied the land for a considerable period. Significantly, the Plaintiff contests the authenticity and legal status of the conveyance relied upon by the 1st Defendant and exhibits correspondence said to originate from the Office of the Administrator and Registrar-General indicating that the deed is not duly registered and does not form part of official records.

16. These competing assertions give rise to substantial issues requiring determination, including: the validity of the Plaintiff's registered title; the validity of the Defendants' alleged conveyance; the legal consequences of any failure of registration; the effect of occupation since 2009; the legal authority, if any, of the NPAA & CTF in relation to the disputed land; and whether the Defendants are trespassers or lawful occupiers. These questions plainly raise serious triable issues. I therefore have no difficulty finding that the first limb of the American Cyanamid test has been satisfied.

Adequacy of Damages

17. The Defendants contend that they occupy the land and that an injunction would cause serious hardship, even rendering them homeless. This submission merits careful consideration. However, the injunction sought is not, strictly speaking, a final order of eviction. The Court is not presently determining ownership.
18. The Plaintiff alleges ongoing construction activity on the disputed property. Indeed, he further alleges that construction has continued notwithstanding an earlier interim order of the Court. Where construction continues upon disputed land, damages often cease to be an adequate remedy because the physical character of the land changes; third-party interests may arise; enforcement of a future judgment becomes more complex; restoration of the property may involve substantial cost.
19. The Plaintiff expressly avers that ongoing construction is destroying the topography of the land and may impose significant restoration expenses should he ultimately succeed. In the circumstances, I am not persuaded that damages alone would adequately protect the Plaintiff.

The Defendants' Occupation and the NPAA & CTF Documents

20. The Defendants rely heavily on authorisation from the NPAA & CTF. Also, Mr R.A. Nylander forcefully submits the undermining effect the injunction would have on the Authority and refers to several Acts of Parliament to support the same.
21. At this stage, however, the Court cannot determine the legal effect of those documents and the cited authorities. Even assuming the documents exist as alleged, significant

questions remain as to: the statutory authority of the NPAA & CTF; whether such authority extends to granting occupation rights; whether such authority can defeat an otherwise valid registered conveyance; and whether the disputed land lies within a protected area. These matters require evidence and legal argument at trial. The Court therefore refrains from expressing any concluded view on the issue.

Balance of Convenience

22. The balance of convenience favours preservation. If the injunction is refused and the Plaintiff ultimately succeeds, the disputed land may have been substantially built upon, transferred, subdivided, or otherwise altered. Conversely, if the injunction is granted and the Defendants ultimately succeed, the principal prejudice suffered would be temporary restraint from further development pending adjudication.
23. The Plaintiff has also undertaken to be bound by the usual undertaking as to damages. Applying the approach in *Films Rover*, it seems to me that preserving the property carries the least risk of injustice.

Preservation of the Status Quo

24. The modern purpose of interlocutory relief is preservation. The Court is not yet deciding who owns the land. The Court is deciding whether the land should be kept substantially intact until ownership is judicially determined.
25. Given the existence of competing title claims, allegations of continuing construction, and unresolved questions concerning registration and authority, preservation of the property is both prudent and necessary.

The Findings

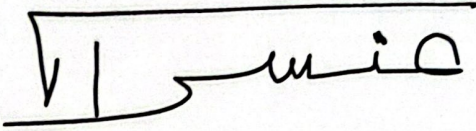
26. Having carefully considered the affidavits, exhibits, submissions, and applicable law, I find as follows: the Plaintiff has established a serious issue to be tried. The parties assert competing proprietary claims requiring determination at trial. Damages would not provide an adequate remedy if the land continues to be altered pending trial. The balance of convenience favours preservation of the subject matter. And the interests

of justice require maintenance of the status quo pending final determination of the action.

The Orders

27. Consequently, I hereby make the following orders:

1. An interlocutory injunction is granted restraining the Defendants, whether by themselves, their servants, agents, privies or assigns, from continuing construction upon, entering further upon, selling, transferring, leasing, alienating, disposing of, or otherwise interfering with the parcel of land described in the Writ of Summons pending the hearing and determination of this action.
2. The Plaintiff's undertaking as to damages shall remain binding until further order of the Court.
3. The substantive action shall be expedited and fixed for case management within twenty-eight (28) days as follows:
 - i. That each party shall serve on the other copies of all documents to be tendered and used at the trial within 14 days of the grant of these directions.
 - ii. That each party shall, within 28 days from the date of this order, prepare and file the usual court bundle, which shall comprise:
 - a) Copies of the pleadings and any amendment thereto.
 - b) Lists of issues in dispute.
 - c) Admission of fact (if any) arising out of those issues.
 - d) A list of the witnesses to be called at the trial by each party and the witness statements.
 - iii. That there shall be liberty to restore the summons for further directions.
 - iv. That the plaintiff shall set down the action for trial no later than Tuesday, the 27th of October 2026.
 - v. That this matter shall be put before me on Tuesday, the 3rd of November 2026, to ensure compliance and fix a date for trial.
 - vi. This matter is adjourned to Tuesday, the 3rd of November 2026, at 10:00 a.m.
4. Costs shall be costs in the cause.



HONOURABLE MR. JUSTICE
ABDUL RAHMAN MANSARAY J.