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NO.1

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

BETWEEN:

MRS DAISY GILPIN (NEE REFFELL)

-

PLAINTIFF

MS PEARL RAFFELL

AND

ALHAJI SOW

-

1ST DEFENDANT

PA BARRIE

-

2ND DEFENDANT

ISATA BAH

-

3RD DEFENDANT

BINTA JALLOH

-

4TH DEFENDANT

AMADU BARRIE

-

5TH DEFENDANT

SAJOH JALLOH

-

6TH DEFENDANT

MAMADU BAH

-

7TH DEFENDANT

MOHAMED JALLOH

-

8TH DEFENDANT

ABIBATU BARRIE

-

9TH DEFENDANT

MR ABUBAKARR

-

10TH DEFENDANT

MADAM ADAMA

-

11TH DEFENDANT

MADAM AMIE

-

12TH DEFENDANT

AND

MOHAMED YASIN BAH

-INTERESTED PARTIES/APPLICANTS

IBRAHIM CHAPATOR BAH

COUNSEL

E.T. KOROMA FOR THE PLAINTIFFS/RESPONDENTS

A.S. MARRAH & U.K. SESAY FOR THE INTERESTED PARTIES/APPLICANTS

RULING

HONOURABLE MR. JUSTICE

ABDUL RAHMAN MANSARAY J.

6TH DAY OF OCTOBER 2026

Background

1. This is a ruling on a Notice of Motion dated 9th January 2026, brought by the Interested Parties/Applicants, Mohamed Yassin Bah and Ibrahim Chapator Bah. The Applicants pray this Honourable Court for an order joining them as parties to this action pursuant to Order 18, Rule 6 of the High Court Rules, 2007. Thus, they seek an order staying the execution of, and setting aside, the Default Judgment dated 6th July 2020 pursuant to Order 46, Rule 11, alongside an order restoring them to possession of the disputed property at Freetown Road, Wilberforce.
2. The main action was instituted by the Plaintiffs in 2015 against twelve distinct Defendants. The Plaintiffs subsequently obtained a Default Judgment on 6th July 2020. The Applicants state they became aware of these proceedings only in 2025, when a Writ of Possession and Assistance was served on the property.
3. The Plaintiffs/Respondents have fiercely resisted this intervention through an Affidavit in Opposition sworn on 25th May 2026 and a Supplemental Affidavit in Opposition sworn on 1st July 2026. The Plaintiffs contend that the judgment was obtained strictly within the bounds of regular procedure, that the Applicants' title documents are entirely fabricated, and that this application is an abuse of court process engineered to freeze a legitimate execution process that has been active since 2015.

The Factual Conflict in the Affidavits

4. The affidavits before the court reveal a profound divergence of facts. The Applicants claim a robust proprietary interest by a Deed of Conveyance dated 25th January 2011 (Exhibit "A") executed by the Plaintiffs. They claim undisturbed possession since that date and state they only received notice of this action when a Writ of Possession and Assistance emerged in 2025.
5. By contrast, the Plaintiffs categorically depose that the Applicants are "mere strangers" with whom they have never engaged in any land transaction. They argue that Exhibit A is fictitious. Crucially, the Plaintiffs emphasise that during active litigation before Hon. Justice Monfred Sesay JA, notices and direct service were levied upon all occupants. They highlight that another affected occupier, Samir Antar, actively applied for joinder

and entered a Consent Judgment (Exhibit "DGPR3"). They argue that the Applicants' failure to step forward until 2026 constitutes an inordinate and fatal delay.

The Issues

6. The issues for determination are twofold. (1) Whether a non-party asserting an adverse interest can be joined to an action after a final or default judgment has already been recorded. And (2) whether the dispute surrounding the authenticity of the Applicants' Deed of Conveyance creates a triable issue or functions as an absolute bar to setting aside a regular default judgment.

The Analysis and Authorities

7. Concerning the first question, the threshold for joining a party under Order 18 Rule 6(2)(b) of the High Court Rules 2007 centres on whether the presence of that party is required to completely try and settle the dispute. The Plaintiffs correctly argue that the finality of a judgment must be protected to prevent endless cycles of litigation. They cite precedent established at earlier stages of this action before Hon. Justice Monfred Sesay JA, where other occupants timeously sought joinder.
8. The common law rule regarding post-judgment joinder is exceptionally restrictive. As stated in *Attorney-General v. Birmingham, Tame, and Rea District Drainage Board* (1881) 17 Ch D 685, once a final judgment is recorded, a court is generally functus officio regarding joinder, unless the execution of that judgment will directly result in an irreparable injustice to an unserved party who holds legal rights.
9. The Plaintiffs show that they took steps to warn occupants. However, the court must balance case management with substantive due process. If the Applicants are indeed physical occupants holding a registered instrument, an execution would evict them without determining their claim.
10. With respect to the second issue, i.e., the legitimacy of the deed vs the threshold for a triable defence, the Plaintiffs' most potent argument is that the Applicants' purported 2011 Deed of Conveyance is highly questionable and fictitious. They contend that a

regular default judgment should not be uprooted on the basis of an unverified, suspected document.

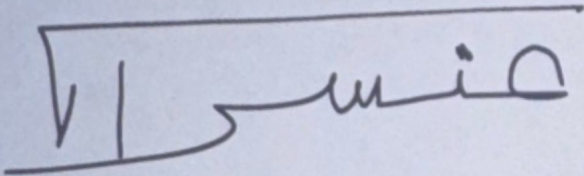
11. This brings us directly to the timeless principle of common law pleadings set out in *Cropper v. Smith* (1884) 26 Ch D 700. The court established that the primary object of the judiciary is to decide the actual substantive rights of the parties, rather than to penalise them for errors or procedural absences. However, *Cropper v. Smith* explicitly clarifies that an amendment or procedural indulgence must be granted only if it does not introduce an uncompensated injustice and is brought in good faith.
12. In determining whether a default judgment should be set aside, the test is not whether the applicant has conclusively proved their case, but whether they have shown an arguable or meritorious defence. In *Evans v. Bartlam* (1937) AC 473, the House of Lords held that a regular default judgment may be set aside if the court sees a triable issue of fact or law.
13. The radical contradiction between the Applicants' registered deed and the Plaintiffs' outright denial of its existence is the very definition of a profoundly triable issue of fact. A Chamber application supported solely by conflicting affidavits is not the proper forum to determine whether a deed is forged or authentic. Such an inquiry demands a full trial with oral evidence, cross-examination, and forensic scrutiny. To refuse joinder now would be to validate the Plaintiffs' title and destroy the Applicants' claimed title without a single day of trial. This runs counter to the fundamental right to a fair hearing, enshrined in our rules of Natural Justice (*Audi alteram partem*), as affirmed by *Conteh v Reginam* (1957-60) ALR SL 47 and *Amadu Hassan v John Kerefa-Smart* (1962) SLLR 36.

The Orders

14. While this Court notes the Plaintiffs' frustration with the extreme delay since the 2020 judgment, it cannot permit the potential execution of a judgment over property that the Plaintiffs may have legally divested by a 2011 deed. The dispute over the deed's authenticity requires a trial on the merits.

15. Consequently, I shall grant the application, subject to stringent procedural timelines to eliminate any risk of an abuse of process or unnecessary delay. The court hereby orders as follows.

1. MOHAMED YASSIN BAH and IBRAHIM CHAPATOR BAH are added as Defendants to the action intituled C.C. 12/15.
2. The Judgment in default dated 6th July 2020 and the Writ of Possession and Assistance are set aside, conditional upon the added Defendants filing and serving their Defence within seven (7) days of this Order.
3. Execution is stayed, and the Applicants shall remain in possession pending trial.



HONOURABLE MR. JUSTICE
ABDUL RAHMAN MANSARAY J.