

MISC. APP 12/20245

2025

I.

NO.2

IN THE HIGH COURT OF SIERRA LEONE
(LAND, PROPERTY AND ENVIRONMENTAL DIVISION)
IN THE MATTER OF THE CONVEYANCING ACT 1881 & 1882

AND

IN THE MATTER OF THE REGISTRATION OF INSTRUMENTS ACT CAP 256 OF THE
LAWS OF SIERRA LEONE AS AMENDED BY THE REGISTRATION OF INSTRUMENTS
(AMENDMENT) ACT NO. 6 OF 1964

AND

IN THE MATTER OF AN APPLICATION FOR THE EXPUNGEMENT OF A REGISTERED
DEED OF CONVEYANCE

BETWEEN:

RABIE ZAYAT - PLAINTIFF/RESPONDENT

AND

THE ADMINISTRATOR & REGISTRAR-GENERAL - DEFENDANT/RESPONDENT

ALIE TAHINI - APPLICANT/PROPOSED
INTERVENER/INTERESTED PARTY

COUNSEL

O. JALLOH AND F.I. BOCKARIE FOR THE PLAINTIFF/RESPONDENT

S. GASSAMA FOR THE DEFENDANT/RESPONDENT

B.E.T. CUMMINGS FOR THE APPLICANT/PROPOSED INTERVENER/INTERESTED

RULING

HONOURABLE MR. JUSTICE

ABDUL RAHMAN MANSARAY J.

6TH DAY OF OCTOBER 2026

The Application

1. Before this Court is a Notice of Motion filed on behalf of the Applicant/Proposed Intervener/Interested Party, Alie Tahini, seeking principally: Joinder as a party to these proceedings; An order setting aside the Orders of this Court dated 7 May 2025 and 16 June 2025; A stay of execution of those Orders; and such further orders as may be just. The application is supported by the affidavit of Ibrahim Komkanda Bangura, Esq., sworn on 25 August 2025 and a further affidavit in reply by Alan Williams, Esq.
2. The application is opposed by the Plaintiff/Respondent through the affidavit of Rabie Zayat, sworn on 17 September 2025, and by the Defendant/Respondent through the affidavit of Roland Ibrahim Samura, Esq., and the supplementary affidavit of Joseph Brima Mallah, Esq.

The Background

3. The originating proceedings were commenced by the Plaintiff seeking the expungement of a Deed of Conveyance allegedly dated 30 July 1981 and registered in Volume 331 at Page 96 of the Record Books of Conveyances and all instruments deriving title therefrom.
4. Following the filing of an Originating Summons, this Court, on 7 May 2025, granted orders directing the expungement of the impugned conveyance and subsequent instruments. That order was thereafter amended by an order dated 16 June 2025.
5. The Applicant contends that his Vesting Deed dated 30 May 2022, registered as No. 187/2022 in Volume 2 at Page 37, derives title from the conveyance affected by the orders of this Court, and that he was neither served nor joined in the proceedings, notwithstanding that his proprietary interests were directly impacted.
6. The Plaintiff and the Administrator and Registrar-General maintain that investigations undertaken by the Land Registry revealed that the 1981 deed had been inserted into the records outside normal registration procedures, exhibited visible irregularities, and was considered inauthentic.

The Issues

7. The application raises four principal questions: whether the Applicant is a necessary or proper party. Whether the Orders of 7 May 2025 and 16 June 2025 were made in breach of the rules of natural justice. Whether the Applicant has established grounds for setting aside the said Orders ex debito justitiae. And whether the merits of the disputed conveyance's authenticity ought to be determined in this application.

The Governing Legal Principles

Joinder of Necessary Parties

8. The law is settled that all persons whose legal rights may be directly affected by a decision of the Court ought ordinarily to be joined. In *Amon v Raphael Tuck & Sons Ltd* [1956] 1 QB 357, Devlin J stated that a necessary party is one whose rights may be directly affected by the order sought. The principle has long been recognised throughout the Commonwealth and has been repeatedly applied in Sierra Leonean courts whenever judicial proceedings may affect property rights.
9. The rationale is obvious. Courts exist not merely to determine disputes but to determine them finally and effectively. A decision affecting proprietary rights without hearing the holder of those rights risks producing injustice and multiplicity of litigation. This principle now finds constitutional reinforcement in section 23 of the Constitution of Sierra Leone, 1991, which guarantees a fair hearing before rights and obligations are determined.

Natural Justice

10. The rule of audi alteram partem remains one of the foundational pillars of the common law. In *Ridge v Baldwin* [1964] AC 40, the House of Lords reaffirmed that a decision affecting rights made without hearing the affected party is ordinarily void. In *Anlaby v Praetorius* (1888) 20 QBD 764, it was held that no order should be made to deprive a person of rights without giving that person an opportunity to be heard.
11. Courts throughout the Commonwealth, including Nigeria, Ghana, The Gambia, and Sierra Leone, have consistently applied the same principle. The Supreme Court of

Nigeria, in *Adigun v Attorney-General of Oyo State* (1987) 1 NWLR (Pt.53) 678, observed that once a denial of fair hearing is established, the correctness of the decision becomes immaterial; the decision cannot stand.

12. Although the ECOWAS Court is not directly concerned with domestic procedural joinder applications, its jurisprudence consistently emphasises fair hearing and participatory justice as fundamental rights. In *SERAP v Federal Republic of Nigeria* and numerous subsequent authorities, the ECOWAS Court stressed that judicial and administrative decisions affecting legal interests must be reached through procedures respecting due process and equal participation. These principles accord with Article 7 of the African Charter on Human and Peoples' Rights, which forms part of Sierra Leone's international human rights obligations.

Setting Aside Orders Ex Debito Justitiae

13. The jurisdiction to set aside an order made in breach of natural justice is an inherent one. In *Craig v Kanssen* [1943] KB 256, Lord Greene MR observed that an order obtained in circumstances denying affected persons an opportunity to be heard may be set aside as of right.
14. Likewise, in *Lazarus Estates Ltd v Beasley* [1956] 1 QB 702, the Court recognised the inherent power to prevent abuse of judicial processes where procedural irregularity undermines the legitimacy of a decision. The principle of *ex debito justitiae* exists because justice requires that orders made contrary to fundamental procedural fairness should not be permitted to stand.

The Analysis

Whether the Applicant Is a Necessary Party

15. The evidence establishes that the impugned Court Orders did not merely concern an abstract registry entry. They extended to the expungement of instruments deriving title from the disputed conveyance. The Applicant's Vesting Deed of 30 May 2022 is expressly alleged to derive title from that conveyance. The result is that the Orders directly affect a registered instrument held by the Applicant.

16. Indeed, the Notice of Motion specifically challenges the expungement of that Vesting Deed. A person whose registered instrument may be removed from the public record cannot sensibly be regarded as a stranger to the proceedings. The Court therefore finds that the Applicant was not merely a proper party but a necessary party whose rights were directly liable to be affected.

Whether There Was a Failure of Fair Hearing

17. The Applicant asserts that neither the Originating Summons nor the subsequent application for amendment was served upon him. The Plaintiff's affidavit does not demonstrate that service was effected on the Applicant. Instead, it contends that the Administrator and Registrar-General, as custodian of the records, was the proper party.
18. I cannot accept that proposition. A custodian of records and the beneficiary of a registered instrument are not the same person. The Registrar-General may possess administrative custody of the records but does not hold the proprietary interest represented by the instrument. The distinction is fundamental. An order expunging a document may be administrative in form but is proprietary in consequence. The Applicant's legal interest was therefore distinct from the Registrar-General's.
19. The record before me discloses no evidence that the Applicant was allowed to contest the allegation of fraud, the allegation of irregular registration, the allegation of inauthenticity, or the request for expungement. Accordingly, I find that the Applicant was deprived of the opportunity to be heard before orders affecting his claimed proprietary interests were made. That omission breached the audi alteram partem rule.

The Significance of the Registrar-General's Findings

20. The Respondents rely heavily upon investigations revealing that the registration process relating to the disputed conveyance did not comply with normal procedures and that visible inconsistencies existed in the relevant entries. These are serious allegations.

21. However, evidence suggesting irregularity does not eliminate the affected person's right to be heard. Indeed, the more serious the allegation, the stronger the need for procedural fairness. The Court accepts that the Registrar-General possesses statutory responsibilities under the Registration of Instruments Act in relation to records and registration processes. Nevertheless, whether a document is ultimately invalid, fraudulent, or liable to expungement is a judicial determination carrying consequences for vested rights. Before such determination is made, the person asserting title under the instrument must ordinarily be heard.

Should This Court Determine Authenticity Now?

22. On the final question, whether the merits of the disputed conveyance's authenticity ought to be determined in this application, I decline to do so. The affidavits disclose substantial disputes, including: registration number discrepancies (915/81, 975/81 and 976/81); the significance of certified copies issued by the Registry; the effect of NRA endorsements; alleged procedural irregularities in registration; and the legal consequences of maintaining a document in the registry for over four decades.
23. Such questions require full evidential ventilation. This application concerns procedural fairness, not final determination of title. The Court therefore refrains from making definitive findings regarding authenticity or ownership.

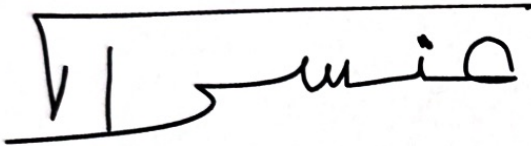
The Findings

24. Having carefully examined the Notice of Motion, the affidavits, the applicable law, and the parties' submissions, I reach the following conclusions. (i) The Applicant possesses a direct and substantial interest in the subject matter of these proceedings. (ii) The Orders of 7 May 2025 and 16 June 2025 directly affect the Applicant's registered Vesting Deed. (iii) The Applicant was not joined and was not allowed to be heard before those Orders were made. (vi) The failure to hear the Applicant constituted a breach of the principles of natural justice and fair hearing. (v) In the circumstances, the Orders cannot safely stand and fall to be set aside *ex debito justitiae*.

The Orders

25. Consequently, I hereby make the following orders.

1. The Applicant, Alie Tahini, is hereby added as a Defendant to MISC.APP. 59/25.
2. The High Court Orders dated 7th May 2025 and the subsequent amending order dated 16th June 2025 are hereby set aside in their entirety ex debito justitiae.
3. The Defendant, the Administrator & Registrar-General, is ordered to immediately restore the Vesting Deed dated 30th May 2022 (Registered as No. 187/2022, Volume 2, Page 37) and its corresponding roots to the Record Books of Conveyances.
4. The Plaintiff shall serve the amended Originating Summons and all supporting affidavits upon the newly joined Defendant within seven (7) days of this order.
5. This matter is adjourned to Tuesday, 27 October 2026 at 10: 00 a.m.
6. Costs of this application shall be costs in the cause.



HONOURABLE MR. JUSTICE
ABDUL RAHMAN MANSARAY J.