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MIS.APP. 20/2004

IN THE COURT OF APPEAL OF SIERRA LEONE
CERTIFICATE OF THE ORDER OF THE COURT

RULE 35(1)

BETWEEN:

FIRETEX INTERNATIONAL
COMPANY LIMITED

- APPLICANT/APPELLANT

AND

SIERRA LEONE EXTERNAL
COMMUNICATIONS

AND

SIERRA LEONE TELECOMMUNICATIONS - RESPONDENT
COMPANY LIMITED

RULING

MURIA, TEJAN-JALLOH JJA, TUNIS J: The applicant seeks a stay of execution of the order of this Court given on 16th June 2004, on the grounds deposed to in the affidavit of SBG in support of the application. The stay of execution is sought pending appeal to the Supreme Court.

Among the grounds relied upon, and very much the main thrust of the application for stay of execution, is that the contention that enforcement of the judgments will cripple the applicant financially.

We have cause to refer to the affidavits of Mr. Samuel Boston-Griffiths in support of the applications, the affidavits of N.C. Browne-Marke exhibiting also the affidavit of C.C.V. Taylor and the exhibits thereto. Having considered the materials before us, we are clearly of the view that the case against granting a stay is substantial. We do not lose sight of the undertaking given by the applicant's Managing Director which was not complied with. We are also of the

view that the Judgment/Order of this Court, given on 16th June 2004 particularly paragraphs 3 and 4, are unlikely to be complied with in the light of what we have discovered in the materials now before the Court.

We must abide by the principle that stay of execution should only be granted if there are "special circumstances" shown. We regret that no such special circumstances have been shown here. We are also mindful that as an appeal has been filed in the Supreme Court, the Court must ensure that the appeal if successful is not a nugatory. Having considered these factors, we should issue an "unless order" in this case. Thus the order of the Court will be:

"stay of execution is refused unless the applicant paid into Court the sum of Le.61,450,000.00 by the close of banking business on Wednesday afternoon 7th July 2004.

Liberty to apply".