

Civ.App.67/2005

IN THE COURT OF APPEAL OF SIERRA LEONE

BETWEEN:

AMAL TOUFIC HUBALLAH - APPELLANT/ APPLICANT

VS.

CHERNOR SOW - PLAINTIFF/ RESPONDENT

CORAM

Hon. Justice. U.H. Tejan-Jalloh JA

Hon. Justice PO. Hamilton JA

Hon. Justice S. Koroma JA

HEARING:

RULING:

*Advocates:*

*C.F. Edwards: for Applicant*

*Allan B. Halloway: for Respondent*

RULING

Delivered this 23<sup>rd</sup> day of May 2006.

TEJAN-JALLOH JA: It is a well settled principle that the only ground on which under the rules the Court would stay execution of a judgment is where special circumstances are shown.


Having heard and considered the affidavit filed in support of the application by C.F. Edwards Esq., we have asked ourselves whether any of very special circumstances have been shown. In that line we have observed that the

judgment which the Appellant/Applicant relied upon is that of Hon. Justice L.B.O. Nylander dated the 24<sup>th</sup> day of January 2002. (Exhibits ABH4B) which is not appealed. It is alleged in paragraph 7 of the affidavit that the Appellant/Applicant has a conveyance in respect of the whole portion of land being claimed by the Plaintiff/Respondent in his Writ of Summons dated 8<sup>th</sup> February 2005 that the Applicant/Respondent is operating a mattress factory in the portion of the land in dispute, which is being occupied by most of the workers in the factory as their residence for over 12 (twelve) years. The workers will be rendered homeless. We think it is important to note that by paragraph 5 of the judgment of Justice L.B.O. Nylander the title of deed (Conveyance) which formed the basis of the Judgment of Justice A.N.B. Stronge is deemed in law to have been expunged from the record book of Conveyances in the Office of the Registrar-General until that Judgment is set aside.

More importantly, it is averred in paragraph 13 and which is not denied that the Deponent have been informed by the Appellant/Applicant and verily believe that the Plaintiff/Respondent intends to part with the said portion of land before the determination of the appeal. The said Averments have not been denied there being no affidavit in opposition filed to the application.

Without further ado, we consider the facts to be weighty and substantial enough to warrant our interference at this stage. Consequently, a stay of execution of the Judgment of Justice A.N.B. Stronge dated 26<sup>th</sup> day of November, 2005 and all subsequent proceedings pending the hearing and

determination of the Appeal to the Court of Appeal of Sierra Leone is hereby granted. Costs in the cause.

Hon. Justice U.H. Tejan-Jalloh J.A. 

Hon. Justice P.O. Hamilton JA. 

Hon. Justice S. Koroma JA. 