

Misc. App. 7/2010

IN THE COURT OF APPEAL OF SIERRA LEONE

BETWEEN:

CHRISTIAN OGOO - 1ST APPLICANT
DATATEL NETWORK GSM (SL) LTD - 2ND APPLICANT

AND

HUAWEI TECHNOLOGIES LTD - 1ST RESPONDENT
CELLCOM TELECOMMUNICATIONS (SL) LTD - 2ND RESPONDENT

CORAM:

Hon. Mr. Justice S.A. Ademosu - JA
Hon. Mrs. Justice A. Showers - JA
Hon. Mrs. Justice V.M. Solomon - JA

ADVOCATES:

E.E.C. shears-Moses Esq. for the Applicants
C. Macauley Esq. for the Respondents

RULING DELIVERED THIS 15TH DAY OF July 2010

ADEMOSU J.A.

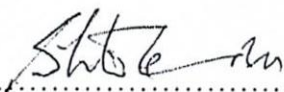
By a Notice of Motion dated 10th June 2010 the applicants applied for the following orders:

1. That the 1st and 2nd Applicant be granted leave to appeal from the Ruling of the Honourable Justice N.C. Browne-Marke J.A. dated the 10th day of November 2009.
2. That the costs awarded by Order dated the 28th day of May 2009 be stayed pending the hearing and determination of this application.
3. Any further or other relief.
4. Costs.

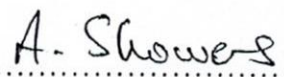
The application is supported by 25, paragraph affidavit and 15 exhibits and is opposed by the respondent who filed an affidavit in opposition with exhibits attached. I will first of all dispose of the respondent's contention which dwells principally on issue of jurisdiction in this jurisdiction. Mr Macauley in opposing this application cited a good number of cases both local and foreign but in my view though they appear to be formidable but they can only be useful in consideration of the appeal on its merits. For instance, the case of A.P. Muller V. Hadson

Taylor Civ. App.10/88 was an appeal from my decision of November, 6 1987. It was a ruling on exclusive jurisdiction clause in a Bill of Lading. That was a shipping matter. All the other issues raised upon which authorities were cited are ones that the proper forum to consider them is the Court of Appeal and not in an application of this nature.

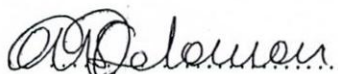
Turning to the application before this court. Our main concern here is whether the applicants have discharged the onus of showing prima facie good grounds of appeal. In moving this Court Mr. Shears-Moses drew our attention to several salient paragraphs in the supporting affidavit as well as in the exhibits attached which are self-explanatory. In considering them we did not lose sight of the fact that the applicants are strictly maintaining that they have a jurisdictional issue to be determined on appeal. Bearing also in mind that the applicants are exercising their Constitutional right we feel that they should not be denied the right. In the circumstances, we grant the leave sought as prayed. Applicants to file and serve their appeal within seven (7) days from the date hereof.


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Hon. Mr. Justice S.A. Ademosu J.A.


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Hon. Mrs. Justice A. Showers J.A.


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Hon. Mrs. Justice V.M. Solomon J.A.