



IN THE HIGH COURT OF SIERRA LEONE  
LAW COURTS BUILDING  
SIAKA STEVENS STREET

CC.115/17

MRS. MARY GEORGE

APPLICANT

AND

MR. MOHAMED LAMRANA SOWE

RESPONDENT

REPRESENTATION:

SHEARS-MOSES & CO.

COUNSEL FOR THE PLAINTIFF

BREWAh CO.

COUNSEL FOR THE DEFENDANT

**BEFORE THE HON. MR. JUSTICE SENGU KOROMA JSC**  
**RULING DELIVERED ON 15<sup>TH</sup> JULY, 2019.**

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### THE PRESENT APPLICATION

1. This Plaintiff/Applicant herein (hereafter known as the Plaintiff) filed a Notice of Motion dated the 1<sup>st</sup> March, 2019 seeking the follows Orders:
  - 1) That the defence filed by the Defendant/Respondent herein be struck out and Judgment entered accordingly in favour of the Plaintiff/Applicant.
  - 2) Any other order that this Honourable Court may deem fit and just.
2. The Applicant gave notice that at the hearing of the Application it intended to use the affidavit of Martha Lawali sworn to on the 1<sup>st</sup> March, 2019 together with the exhibits attached thereto.

### BACKGROUND

3. The Applicant (then Plaintiff) herein filed Writ of Summons against the Respondent (then Defendant) herein (hereinafter known as the "Respondent" claiming the following relief :)
  - a) A declaration that the piece of land lying, being and known as 33-35 Macdonald Street, Freetown forms part of the Estate of Soboe Browne (Deceased);
  - b) Damages for trespass;
  - c) Possession of the piece or parcel of land situate at 33-35 Macdonald Street, Freetown;
  - d) An injunction restraining the Defendant by himself, his servants or agents from entering or in any way interfering with the piece of land either by himself, his agent and howsoever;
  - e) Cancellation of the conveyance dated 28<sup>th</sup> January, 2010 registered as No. 168/2010 at page 85 of volume 655 of the Book of conveyances in the Office of the Registrar-General in Freetown; and
  - f) Costs.
4. The firm of Brewah & Co. entered appearance for and on behalf of the Defendant dated 4<sup>th</sup> May, 2017. A defence and counterclaim was filed on the 16<sup>th</sup> May, 2017
5. The Applicant filed a reply and defence to counterclaim dated 9<sup>th</sup> February, 2018.
6. Notice of Entry for trial was filed on the 11<sup>th</sup> May, 2018 and matter entered for trial on the same date.
7. Directions were given on the 11<sup>th</sup> June, 2018 and the Applicant complied with the Directions on the 19<sup>th</sup> November, 2018. The Respondent did not.
8. I observe that all of these processes were served on the Defendant's Solicitor and various affidavit of service of them filed.



9. The matter came up for trial on the 13<sup>th</sup> March, 2019 at which the Registrar informed the Court that the Solicitors on record, Brewah & Co. had been duly served but did not attend.
10. The Counsel for the Applicant indicated to the Court that she intended to move a Notice of Motion. It was however found out there was no affidavit of service of the said Notice of Motion in the file though Counsel stated that service had been effective. The matter was adjourned for an affidavit of service to be filed.
11. At the next adjournment date on Monday, 18<sup>th</sup> March, 2019, Ms. Lawali informed the Court that an affidavit of service of the Notice had been filed, and was allowed to move the said application
12. Before moving the application, Ms. Lawali amended same to read as follows:
  - i) "That the Defence and counterclaim filed by the Defendant/Respondent herein be struck out and Judgment entered in favour of the Applicant".The application was granted.
13. In her submission, Ms. Lawali relied on the entirety of the affidavit with particular reference to paragraphs 6-3
14. Ms. Lawali submitted that the Respondent had failed to comply with the Orders of this Honourable Court by refusing, neglecting or omitting to comply with the Directions given. She stated that the Applicant had complied with the said Directions and served same on the Respondent. In addition to that, a letter was served on the Defendant's Solicitors reminding them of the duty to comply with the Directions of the Court. The said Solicitors still did not comply with the said Directions. Ms. Lawali finally submitted that this Application was made under Order 28 (2) 5 of the High Court Rules, 2007
15. At the end of the application, the Court ordered that an opportunity be given to the Defendants to reply to the application. The matter was adjourned to the 29<sup>th</sup> March, 2019 to enable the Court serve another notice of hearing on the Defendants' Solicitors.
16. On the 28<sup>th</sup> March, 2019 the Defendant and Counsel were again absent though, according to the Registrar, they were served with the Notice of hearing.
17. The Defendant had up to this point neither appeared in Court, complied with the Directions of the Court nor filed an affidavit in opposition to this Application.
18. In consequence of the failure of the Defendant to appear in Court and to comply with its Directions, despite the existence of various affidavits of service of notice of hearing and Applications, the file was withdrawn for Judgment. The Court came to the conclusion that the Defendant by the

2. That the Applicant is here granted possession of the piece or parcel of land situate at 33-35 Macdonald Street, Freetown.
3. An injunction restraining the Defendant by himself, his servants or agents from entering or in any way interfering with the piece of land either by himself, his agent or howsoever is hereby granted
4. That the conveyance dated the 28<sup>th</sup> January, 2010 registered as No. 168/2010 at page 85 of volume 655 of the Books of Conveyances in the Office of the Registrar-General, Freetown is hereby cancelled
5. Costs to be taxed if not agreed



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Hon. Mr. Justice Sengu Koroma (JSC)