

IN THE HIGH COURT OF SIERRA LEONE
(COMMERCIAL AND ADMIRALTY DIVISION)
FAST TRACK COMMERCIAL COURT

MISC.APP: 023/15

BETWEEN: AMINATA BANGURA & ANOR - PLAINTIFF
AND
ASSOCIATED TRANSPORT AND PORTS - DEFENDANT
MANAGEMENT SYSTEMS AND ANOR

REPRESENTATIVE:

SULIAMAN KABBA KOROMA ESQ - COUNSEL FOR THE PETITIONER
UMARU BARRIE ESQ - COUNSEL FOR THE DEFENDANT


BEFORE THE HONOURABLE JUSTICE SENGU M. KOROMA, JUDGE
RULING DELIVERED ON THE 22ND DAY OF APRIL, 2016.

RULING

1. This is a Petition dated the 12th day of October, 2015 filed for an on behalf of the Petitioners herein – AMINATA BANGURA and TRANSPORT AND PORTS MANAGEMENT SYSTEMS, WEST AFRICA SIERA LEONE LIMITED praying that the court:
 - a. Grants a declaration that the shares held by the first Respondent taken in the second Petitioner Company be declared null and void ab initio on the grounds that same is not a juristic person in Sierra Leone to own shares in any company in Sierra Leone.
 - b. Alternatively that the shares of the 1st Respondent be cancelled and all amounts paid to purchase same be cancelled.
 - c. That the shares taken by the second Respondent by put for sale and the 1st Petitioner be given first option to purchase same
 - d. An injunction restraining the 2nd Respondent as Director/Managing Director or in any other capacity from conducting the affairs of the company in a manner likely to affect the Petitioner's rights as a member of the company or otherwise acting in an oppressive, unfairly prejudicial or in any other manner that is in disregard of the Petitioner's wishes.
 - e. That the 2nd Respondent be removed as Managing Director/Director or whatever capacity he holds in the 2nd Petitioner company.
 - f. Makes any such order in the premises as the court shall deem fit.
 - g. costs
2. The Petition is supported by the affidavit of Aminata Bangura sworn to on the 12th day of October, 2015 together with the exhibits attached thereto. The exhibits are as follows:-
 - Exhibit "AB1" – Certificate of Incorporation of the Company.
 - Exhibit "AB2" – Memorandum and Articles of Association of the said company.The deponent additionally confirmed that the averments in Paragraphs 1-27 of the Petition dated 12th October, 2015 are true and correct to the best of her knowledge and belief.
3. Counsel for the Petitioner, Sulaiman K. Koroma Esq moved the Petition on the 20th April, 2016. At the hearing of the petition, Mr. Koroma argued mainly that the court grants Order 2 prayed for herein that is for the shares of the 1st Respondent to be cancelled and all amounts paid to purchase same be refunded. He relied on the entirety of the affidavit in support herein and indicated to the court that both parties have reached an agreement on how to settle this matter.
4. Counsel for the Respondents, Umaru Barrie Esq. in his reply referred the court to the affidavit in opposition (which was probably inadvertently referred to as affidavit in reply) sworn to by Aminata Kallay on the 28th October, 2015. The following documents are exhibited:-
 - Exhibits "AK1" and "AK2" – Petition and affidavit in support, filed herein
 - Exhibits "AK3 and "AK4" – Correspondences between National Commission for Privatization and Jean Codo.

He submitted that in view of the fact that the Petitioners would continue running the company some compensation should be made to the Respondent.

5. The 1st Respondent further filed a Supplemental affidavit sworn to on the 20th day of April, 2015 in which she deposed that she received the sum of US\$ 120,000/00 (after deducting payments made to the 2nd Respondent) and is willing to refund the same within 90 days. She also deposed that the 1st Respondent was not operational since its formation and therefore not involved in any profit venture. Indeed in a letter from the office of the Administrator and Registrar-General dated 2nd October, 2015 in response to a letter from the Solicitor for the Petitioner's, the said office stated that there was no evidence of the registration of the 1st Respondent. In effect shares were purchased in the name of a non-existent company.
6. I have listened to counsel on both sides and it appears to me that this matter took the form of a pre-trial settlement conference with counsel having actual or apparent authority to negotiate the terms of a settlement. Of course there are legal issues involved in this matter but as the parties have agreed on terms, I will not border with them at this stage.
7. In the circumstance, I hereby order as follows:-
 - a. That the company, Transport and Ports Management Systems West Africa (Sierra Leone) Limited be dissolved and is hereby dissolved by mutual consent of the shareholders
 - b. That the shares of the 1st Respondent in the said company be cancelled and the sum of US\$ 120,000 paid therefore be refunded within a period of 90 days from the date of this order.
 - c. Liberty to apply
 - d. Costs in the cause.


Signed: Justice Sengu Koroma, Judge