

Between:

Joseph Anthony Fobie -- Plaintiff/Respondent

And

Kadiatu Kamara -- Defendant/ Applicant

Counsel:

C. Taylor-Young Esq. for the Applicant

S. M. Tarawally Esq. for the Respondent

Ruling on an Application for the Restoration of the Further Summons for Direction, a Leave to Serve a Third-Party Notice to a Stranger, in a Circumstance Wherein the Matter has Already been Set Down for Trial and the First Factual Witness is Being Led in Evidence, Delivered by The Hon. Dr. Justice Abou B.M. Binneh-Kamara, on 29th October, 2019.

1.1 The Application and the Response Thereto.

This ruling is predicated on an application made by C. Taylor-Young Esq. (Counsel for the Defendant/Applicant) on the 2nd day of July, 2019 for the following orders:

1. That this Honourable Court restores the summons for further direction.
2. That leave be granted by this Honourable Court for the Defendant/Applicant to file and serve a Third- Party Notice on Mr. Dauda Kamara whose address is at NO. 20 Johnny Paul Drive Juba, Freetown in the Western Area of the Republic

of Sierra Leone, pursuant to Order 19 of the High Court Rules, 2007 (hereinafter referred to as the HCR, 2007).

3. That Dauda Kamara, upon service of the Third-Party Notice, be made a party to this action.
4. Any further order that this Honourable Court deems fit.

Meanwhile, the aforementioned application is supported by the affidavit of Nasiru Deen Alhadi Esq. sworn to and dated 2nd July, 2019. Even though this Honourable Court would have discountenanced this application (see Sub rule (1) of Rule 2 of The HCR, 2007) had it been made *ex parte*, Counsel for the Defendant/Applicant, thought it procedurally legal and expedient that the requisite notice be served on the Plaintiff/Respondent. Contrariwise, Counsel for the Plaintiff/Respondent (S.M. Tarawally Esq.) argued that it would make no difference, should this Honourable Court even in the most extreme of circumstances decide to make Dauda Kamara a party to this action; noting that the Defendant/Applicant's conveyance, which is Exhibit NDA4, has shown her root of title. Counsel further submitted that the Defendant/Applicant's title deed, which is now part of the Court's records, shows that the said Dauda Kamara, acquired title to the disputed land on the 8th day of May, 1992.

1.2 The Analysis.

Notwithstanding the foregoing submissions of Counsel for the Plaintiff/Respondent, the affidavit in support of the application (particularly paragraphs 6, 7 and 8), establishes the need for Mr. Dauda Kamara of NO.20 Johnny Paul Drive, Juba, Freetown, in the Western Area of the Republic of Sierra Leone, to be made a party to this action. More importantly, the evidential value of the testimony that has so far been elicited from the first factual witness in this action, points to the extent to which this matter can hardly be fairly determined, without making the said person a party to this action, because his testimony might be crucial to the outcome of this matter. Be that as it may, Orders 1, 2 and 3 are hereby granted. Further, I will make no order as to cost. The foregoing Orders are principally granted, because the application dovetails with the provisions of Rules 1, 2 and 3 of Order 19 of The HCR, 2007.

The Hon. Dr. Justice A. Binneh-Kamara, J.

Justice of Sierra Leone's Superior Court of Judicature

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