

IN THE SUPREME COURT OF SIERRA LEONE
SUP. CT. MISC. APP. 1/77

BETWEEN

WINIFRED E. HARRIS - APPELLANT
AND
ROXY J. HARRIS - RESPONDENT

R U L I N G

On 19th December, 1977 the Court of Appeal refused the applicant herein leave to appeal to the Supreme Court against an order of the Court of Appeal dated 12th July, 1977 dismissing the applicant's appeal against an order of the High Court dated 4th May, 1976. By Notice of Motion dated 21st December, 1977 the applicant has applied to this Court for Special leave to appeal to the Supreme Court.

Learned Counsel for the applicant raised the following questions of law, which he submitted ought to be submitted to the Supreme Court for determination:-

- (i) Whether Section 56(1)(b) of the Courts Act, No. 31 of 1965, fetters in any way or contains any pre-condition for the exercise of the discretion of a Judge of the High Court in granting leave to an applicant to appeal against his interlocutory Order. If there is no such fetter, and if there is no pre-condition imposed by the said sub-section before granting leave, IN THE ABSENCE OF AN APPEAL, HAS THE COURT OF APPEAL any jurisdiction to call in question the exercise of the Judge's discretion in granting leave to appeal?
- (ii) Where the High Court or a Judge thereof has granted leave to appeal pursuant to an application made by an aggrieved party by virtue of Section 56(1)(b) of the Courts Act, and the Order drawn up, perfected, filed and acted upon, IN THE ABSENCE OF AN APPEAL AGAINST SUCH AN ORDER, has the Court of Appeal any jurisdiction to inquire into the validity or otherwise of the said Order and refuse to assume jurisdiction and hear the appeal?
- (iii) Where the High Court or a Judge thereof in granting leave to an applicant to appeal against his own ruling, and in doing so, acted within the powers conferred upon him by section 56(1)(b) of the Courts Act, 1965, and moreover did nothing directly contrary to Rule 10 of the Court of Appeal

Rules, or assumed to himself new power which ^{was} expressly taken away from him by the said Rule 10 or any other enactment, is the Order granting such leave to appeal void so as to deprive the Court of Appeal of any jurisdiction to entertain the appeal? If not has the Court of Appeal any right to ignore the existence of the Order even though there has not been an appeal against it?

(iv) In the instant case, the Court of Appeal having entertained and determined an appeal against the Order of Williams J. dated the 11th day of May, 1976 wholly setting aside his own order dated 5th May 1976 which had granted the appellant leave to appeal against his (Williams J) interlocutory order of 4th May, 1976, can it thereafter say it had no jurisdiction to entertain the appellant's appeal against the substantive order of 4th May 1976 in the same matter?

In our opinion the questions raised are of general importance. We accordingly grant the applicant special leave to appeal against the Order of the Court of Appeal dated 12th July, 1977 in respect of the four questions of law raised.

Dated 31st January, 1978

E. Livesey Luke

E. Livesey Luke
Acting Chief Justice

C. A. Harding

C. A. Harding
Justice of the Supreme Court

Agnes Awunor-Renner

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Justice of the Supreme Court