

**Jenkins-Johnston** – there shall be fresh ballots in accordance with  
*Chieftaincy Act.*

**Mr. ....** – P. chieftaincy is null and void

Court – having heard counsel on both sides it is hereby ordered that  
the status quo should be maintained i.e. that the fresh Paramount  
Chieftaincy Election for Lokomasama Chieftdom, Port Loko District  
scheduled to be held on the 19<sup>th</sup> March, 2011, be postponed until  
the ruling of this Court on this application is delivered.

Notices will be sent.

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**HON. JUSTICE U.H. TEJAN-JALLOH - C.J. PRESIDING**

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**HON. JUSTICE S. BASH-TAQI – JSC**

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**HON. JUSTICE P.O. HAMILTON – JSC**

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**HON. JUSTICE V.A.D. WRIGHT – JSC**

.....  
**HON. JUSTICE M.E.T. THOMPSON – JSC**

**Sub** – Applicant is seeking to postpone elections for the 19<sup>th</sup> March, 2011.

Both have expended considerable amount

**Sub** – looking at the appeal. I will adopt submissions in relation for 1<sup>st</sup> ground i.e. stay of execution i.e. appeal is freevolous – no question to be tried.

**Sub** – they have not present any evidence before this Court to show their financial means.

**Sub** – if an injunction is granted the applicant will have to give an injunction.

The loss it would cause to 1<sup>st</sup> Respondent and 2<sup>nd</sup> Respondent

2<sup>nd</sup> Respondent – were attagousts in lower Courts now we are together.

**Jenkins- Johnston** – page 322 P. abg Court has to determine the matters before it, with regards stay of execution.

Seeking this Court in granting an injuncton to hold this Court in status quo until the matter is determined.

**Yada** – reference to Exh. E. after the 1<sup>st</sup> Ballot. Kidnapping started.

They have filed to meet criteria.

Exh. H. notice of appeal. Paragraph 3 of Exh. H.

Even by a cursory glance – no law. Only facts. The most serious ground of appeal is misconceived.

**Sub** – they have failed to show that they have good grounds of appeal.

2<sup>nd</sup> ambit of that ground re misdirection an appeal – Judges not guilty of misdirection.

This goes further to compound their difficulties and does not help them.

**Special Circumstance**

No evidence to show special circumstances

Paragraph I-II of affidavit of applicant narrates the history of this case.

The only other paragraph's 12, 13 and 14 – that applicant might ..... this Court to consider as special circumstance.

“Appeal would be rendered nugatory.

**Sub** – there is a very good reason why the Constitution of Sierra Leone has created a hierarchy of Courts wherein courses and actions proceed from High Court to Court of Appeal and Supreme Court. Section 122 of 1991 states why clearly that Supreme Court shall be final Court of appeal.

**Sub** – we must have respect for our Court and provisions not flouted or slighted.

It is but right just and sensible for what is to flow from the decision of appeal.

Also to be moved that in this same matter, the High Court had granted an injunction paragraph 5 of affidavit – blocking recognition of elected P.C. Exh. F – Court of Appeal another injunction for the purpose of ensuring that Appellant is recognized – Civ-16-2011.

**Justice Thompson** –

**Yada Williams** –

**Sub** – that order prayed for by Appellant – they have to reach certain bench marks before orders are granted.

1. For stay – must have *prima facie* good ground.
2. Evidence that should constitute special circumstances.

**Court of Appeal** – and judgment was for 1<sup>st</sup> Respondent. We are now at the final stage in the Highest Court of the land. As I understand the term our court gives right to appellant to come to Supreme Court as of right.

**Sub** – as soon as an appeal is filed the Supreme Court is seized of matter has full jurisdiction of matter.

This application has been made necessary by the fact that judgment has been delivered 2011 it was made public that elections would be held on the 19<sup>th</sup> day of March, 2011.

At the time that we became aware of that particular information we had already filed appeal 28<sup>th</sup> February, 2011.

While matter is pending. We are now being told that something should happen relying on the decision of Court within 4 months Exh. F.

2<sup>nd</sup> Respondent said 19<sup>th</sup> March, 2011. While there matter pending before this Court nothing should be done that will amount to an infringement of this Court or amount to a usurpation of the powers of this Court.

Furthermore, if this elections are proceeded with on the 19<sup>th</sup> March before Court hears appeal it will seem to me that it is being suggested that the decision of the High Court if the land matters not - intolerable.

**IN THE SUPREME COURT OF SIERRA LEONE**  
**WEDNESDAY 16<sup>TH</sup> MARCH, 2011**

**CORAM:**

**HON. JUSTICE U.H. TEJAN-JALLOH - C.J. PRESIDING**  
**HON. JUSTICE S. BASH-TAQI - JSC**  
**HON. JUSTICE P.O. HAMILTON - JSC**  
**HON. JUSTICE V.A.D. WRIGHT - JSC**  
**HON. JUSTICE M.E.T. THOMPSON - JSC**

**MOHAMED BAI SASA KAMARA**

**AND**

**MOHAMED BAI MARU KAMARA**

**AND**

**THE NATIONAL ELECTORAL COMMISSION**

**J.B. JENKINS-JOHNSTON ESQ. - APPELLANT/APPLICANT**  
**LEON JENKINS-JOHNSTON ESQ.**

**YADA WILLIAMS ESQ. - 1<sup>ST</sup> RESPONDENT**  
**OSMAN JALLOH ESQ.**

**NO APPREANCE - 2<sup>ND</sup> RESPONDENT**

**J.B. Jenkins-Johnston** - in addition to the motion filed this matter has track record in the sense that we commenced in the High Court and judgment went against the appellant.

District i.e. the election scheduled for the 30<sup>th</sup> June 2011 must not be held until the determination of his appeal in the Supreme Court.

I have carefully considered the submission by Mr. Jenkins Johnston and Mr. Yada Williams Counsel for the Appellant and 1<sup>st</sup> Respondent respectively. I have also perused the affidavit in support and in opposition to the application. It is clear to me that the affidavit in support does not disclose enough material facts to convince me to exercise my discretion in favour of the appellant. In my judgment this is a case in which there is much greater risk of injustice if the injunction is granted and it turns out that the appellant was wrong. Indeed the affidavit in opposition will suggest and in fact suggests that greater risk will manifest itself if the injunction is granted.

In the result I am satisfied that an injunction is not necessary to protect the appellant's interest until the appeal is heard and determined.


The application must therefore be dismissed.

No order as to costs.

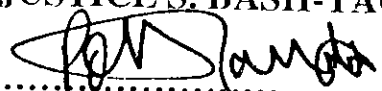


HON. JUSTICE U.H. TEJAN-JALLOH - C.J. PRESIDING


I Agree

  
HON. JUSTICE S. BASH-TAQI - JSC

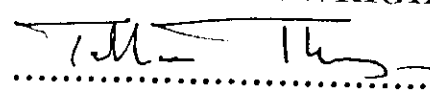
I Agree

  
HON. JUSTICE P.O. HAMILTON - JSC

I agree

  
HON. JUSTICE V.A.D. WRIGHT - JSC

I agree

  
HON. JUSTICE M.E.T. THOMPSON - JSC

During the period of adjournment information came to light that the election for which the said orders were sought had been postponed. The court then came to the conclusion that it would not be proper in the circumstance "to rule on the issue that had already been postponed; this being the gravamen of the matter." The application was accordingly struck out. The appellant has now come to this court again with a similar application supported by the affidavit of the appellant with exhibits attached for the same orders prayed for earlier on.

### **STAY OF EXECUTION**

Mr. Jenkins Johnston during his submission conceded that the Order for a stay of execution is not properly before us, pursuant to rule 60 (2) of the Supreme Court Rules 1982.

In the light of such concession the application for a Stay of Execution of the Judgment and subsequent proceedings is struck out. The Court is now left with the orders for interim injunction.

### **INTERIM INJUNCTION**

The application here is for an interlocutory injunction pending (i) the determination of this application (ii) of the appeal dated the 30<sup>th</sup> February 2011. An interlocutory injunction is an equitable relief which is normally granted at the discretion of the court. Generally it is granted where an irreparable injury would otherwise be caused to the applicant. Such irreparable injury must be substantial and which could never be "adequately remedied or atoned for by damages." See Halsbury Laws of England 2<sup>nd</sup> Ed. Vol. 18.

Another principle of recent origin on which the court can exercise its unfettered discretion to grant the order for an injunction was laid down in the *American Cyanamid v. Ethicon Ltd.* 1975 A.C. 396 that the court must be satisfied that there is a serious issue to be tried and also consider the balance of convenience as to the nature of injury on one hand, which the defendant will suffer if the injunction is granted and it turns out that the defendant was right and the injury which the plaintiff will suffer on the other hand if the injunction is refused and it turns out that he was right. I shall adopt these two principles in this application.

The appellant herein is applying to this court to maintain the status quo with respect to the Chieftaincy election at Loko Masama Chiefdom, Port Loko



SC. CIV. APP. 1/2011

IN THE SUPREME COURT OF SIERRA LEONE

IN THE MATTER OF THE CHIEFTAINCY ACT NO. 10 OF 2009

CORAM:

HON. JUSTICE U.H. TEJAN-JALLOH - C.J. PRESIDING  
 HON. JUSTICE S. BASH-TAQI - JSC  
 HON. JUSTICE P.O. HAMILTON - JSC  
 HON. JUSTICE V.A.D. WRIGHT - JSC  
 HON. JUSTICE M.E.T. THOMPSON - JSC

BETWEEN:

MOHAMED BAI MARU KAMARA - APPELLANT

And

MOHAMED BAI SAMA KAMARA - 1<sup>ST</sup> RESPONDENT

And

THE NATIONAL ELECTORAL COMMISSION - 2<sup>ND</sup> RESPONDENT

COUNSEL:

J.B. Jenkins-Johnston Esq. for the Appellant  
 Yada H. Williams Esq. for the 1<sup>st</sup> Respondent

RULING DELIVERED ON THE 29<sup>TH</sup> DAY OF JUNE 2011  
U.H. TEJAN JALLOH - CHIEF JUSTICE

This is an application by the appellant for the orders contained in the Notice of Motion dated 11<sup>th</sup> April 2011. On the 16<sup>th</sup> of March this court heard a similar application for a stay of execution of the judgment dated the 25<sup>th</sup> January 2011 and all subsequent proceeding: and for an interlocutory injunction restraining the 2<sup>nd</sup> Respondent from conducting fresh chieftaincy election for the Loko Masama Chiefdom, Port Loko District pending the hearing and determination of firstly the application and secondly, of the appeal dated 28<sup>th</sup> February 2011 S.C. Civ.App.1/2011 entitled Mohamed Bai Maru Kamara Appellant and Mohamed Bai Sama Kamara and the National Electoral Commission 1<sup>st</sup> and 2<sup>nd</sup> Respondent respectively. At the end of the arguments and submissions the court took few hours adjournment to consider its ruling.