

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

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

Pursuant to an appeal dated 28<sup>th</sup> February, 2011, and Notice of Motion dated 4<sup>th</sup> March, 2011. J.B. Jenkins-Johnston Esq. moved the Court on the 16<sup>th</sup> March, 2011 for the following orders:

1. *That an Interim Stay of Execution of the Judgment of the Court of Appeal dated 25<sup>th</sup> day of January, 2011 and all subsequent proceedings be granted pending the hearing and determination of this application.*
2. *That a Stay of Execution of the Judgment of the Court of appeal dated 25<sup>th</sup> January, 2011 and all subsequent proceedings be*

*granted pending the hearing and determination of the Appeal herein to this Court.*

- 3. That An Interim Injunction be granted restraining the 2<sup>nd</sup> Respondent from conducting fresh Chieftaincy Elections for Lokomassama Chiefdom, Port Loko District pending the hearing and determination of the Application herein.*
- 4. That An Interlocutory Injunction be granted restraining the 2<sup>nd</sup> Respondent from conducting fresh Chieftaincy elections for Lokomassama Chiefdom, Port Loko District pending the hearing and determination of the appeal herein.*

The Court heard the submissions of J.B. Jenkins Johnston Esq. counsel for the appellant in support of his application and Y.H. Williams Esq. counsel for the 1<sup>st</sup> respondent in opposition and at the end the Court ordered as follows:

“Having heard counsel on both sides it is hereby ordered that the *status quo* should be maintained that is the fresh Paramount Chieftaincy Elections for Lokomassama Chiefdom, 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”.

By a letter dated 16<sup>th</sup> March, 2011 addressed to the Honourable Chief Justice from the Chief Electoral Commissioner/Chairperson of National Electoral Commission Secretariat (NEC) stating that the election was postponed. The letter states:

“The National Electoral Commission (NEC) was in the process of holding a stakeholders meeting in preparation for the conduct of the Lokomassama Paramount Chieftaincy Election when it received a Notice of Appeal to the Supreme Court of Sierra Leone from Jenkins-Johnston and Co and a motion for injunction to prevent any further election being held pending the hearing and determination of the said appeal – see appendix I.

On receipt of Appendix I, NEC consulted its Legal Retainer for advise on the matter. His advice was that NEC should stay action until he got back. – see appendix II. As a result of his advice the election for the Lokomassama Chieftaincy which had been scheduled for 19<sup>th</sup> March, was postponed pending the outcome of the appeal.

Unfortunately, NEC had no information that there was going to be a hearing on the matter today the 16<sup>th</sup> instant. Hence NEC’s absence during the sitting which is deeply regretted.

In view of the foregoing, NEC will be grateful for your advice on any further development on the matter”.

Attached to this letter from NEC were appendix (1) letter dated 8<sup>th</sup> March, 2011 from J.B. Jenkins Johnston Esq. appendix (2) letter dated 10<sup>th</sup> March, 2011 from C.J. Peacock Esq. Solicitor for

2<sup>nd</sup> respondent (NEC). While the matter was in Court I made reference to the absence of NEC or their Counsel in this matter.

What baffles this Court is that such vital information was in the domain of at least one of the Counsel appearing in this matter. Counsel was not candid enough to bring it to the notice of the Court.

In the light of the foregoing we do not consider it proper to rule on an issue that had already been postponed, this being the very gravamen of the matter.

Delivering a ruling on this application will therefore be an exercise in futility. We will therefore want to appeal to Counsel when such situation arises in future to make full and frank disclosure to the Court, this Court being the highest Court in the land.

In view of the above, the application for an injunction ought not to have been before us. It is accordingly struck out.

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**Hon. Justice U.H. Tejan-Jalloh**  
**CHIEF JUSTICE**