

Sup Ct Case No. 2/2018

IN THE SUPREME COURT OF SIERRA LEONE

IN THE MATTER OF THE CONSTITUTION OF SIERRA LEONE, 1991 - ACT NO.  
6 OF 1991 (AS AMENDED) SECTIONS, 41, 75 & 76

IN THE MATTER OF THE SIERRA LEONE CITIZENSHIP ACT, 1973 - ACT NO. 4  
OF 1973

IN THE MATTER OF THE SIERRA LEONE CITIZENSHIP (AMENDMENT) ACT,  
1973 - ACT NO 13 OF 1973

IN THE MATTER OF THE SIERRA LEONE CITIZENSHIP (AMENDMENT) ACT,  
2006 - ACT NO 11 OF 2006

IN THE MATTER OF AN ACTION PURSUANT TO THE SUPREME COURT RULES,  
1982 - PART XVI, RULES 89 -98, S. I. No 1 OF 1982

BETWEEN:

DAVID FORNAH - PLAINTIFF

AND

1. ALHAJI DR KANDEH KOLLEH YUMKELLA - DEFENDANTS
2. THE ATTORNEY-GENERAL & MINISTER OF JUSTICE
3. MOHAMED N'FAH ALIE CONTEH
4. NATIONAL ELECTORAL COMMISSION (NEC)
5. DR DENNIS AYODELE BRIGHT
6. FRANIC HINDOWA
7. NATIONAL GRAND COALITION

CORAM:

THE HONOURABLE MR JUSTICE N C BROWNE-MARKE  
JUSTICE OF THE SUPREME COURT

THE HONOURABLE MR JUSTICE E E ROBERTS  
JUSTICE OF THE SUPREME COURT

THE HONOURABLE MS JUSTICE G THOMPSON,  
JUSTICE OF THE SUPREME COURT

THE HONOURABLE MR JUSTICE ALUSINE S SESAY, JUSTICE OF APPEAL

THE HONOURABLE MR JUSTICE M SENGU KOROMA, JUSTICE OF APPEAL

COUNSEL:

CENTUS MACAULEY ESQ for the Plaintiff

DR A O CONTEH for 1<sup>st</sup> Defendant

2<sup>Nd</sup> Defendant was unrepresented

B E T CUMMINGS (Ms) for 3<sup>rd</sup> and 4<sup>th</sup> Defendants

I S YILLA ESQ for 5<sup>th</sup> Defendant

YASMIN JUSU-SHERIFF (Ms) for 6<sup>th</sup> & 7<sup>th</sup> Defendants.

RULING DELIVERED ON MONDAY 28TH MARCH, 2018

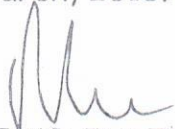
1. On 22<sup>nd</sup> March, 2018, the firm of Macauley, Bangura & Co filed a Notice of Discontinuance on behalf of the Plaintiff herein. The action herein had already been fixed for hearing today 28<sup>th</sup> March, 2018. When today's hearing commenced, Mr Macauley, Counsel for the Plaintiff was invited to address the Court on the notice filed by Plaintiff's Solicitors. He told the Court that his client, the Plaintiff, no longer intended to proceed with the action which he commenced by way of Originating Notice of Motion dated 5<sup>th</sup> February, 2018. He cited as authority for the method he had utilized to discontinue the action herein, the case, Sup Ct Case No. 3/2002 - JOHN E YAMBASU & OTHERS v HON E B KOROMA & OTHERS. There, the 1<sup>st</sup> Plaintiff, John Yambasu had filed an identical Notice of Discontinuance in order to indicate to this Court that he no longer wished to pursue the said action together with his co-plaintiffs. That Court agreed that the said notice was effectual to end his participation in the action, but the action itself continued to conclusion. That case is easily distinguishable from the instant case in that the action did not abate, but continued with the other Plaintiffs actively pursuing their case.
2. In the instant case, statements of case have been filed by the Plaintiff on one side, and the respective Defendants on the other side. Today's hearing was for the Plaintiff to argue in favour of his several claims. Thereafter, we

would have called upon Counsel for the respective Defendants to argue in favour of their several clients.

3. It is our opinion therefore, and we so hold, that the proper method at this stage, of withdrawing this action, is for the Plaintiff to file a Notice of Motion in this Court that it is his intention to freely and voluntarily discontinue the action he began on 5<sup>th</sup> February, 2018. Once he has done this, this Court can then release him from arguing, or, from instructing Counsel to argue in his favour.

4. The Order of the Court is as follows:

- (1) The Notice of Withdrawal is ineffectual to discontinue the action herein.
- (2) The Plaintiff shall file a Notice of Motion seeking the withdrawal of his Originating Notice of Motion no later than 11am tomorrow, Thursday 29<sup>th</sup> March, 2018. Short service of the said Notice of Motion is hereby Ordered. After the filing thereof, this Court shall fix the date and time for the hearing of the said Application. For the avoidance of doubt, if the Application is filed and served within the time stated above, hearing will immediately follow tomorrow, Thursday 29<sup>th</sup> March, 2018. Costs will be dealt with at the same time.



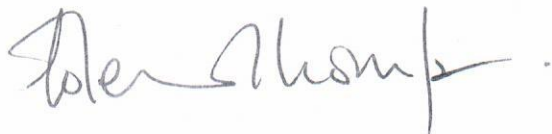
THE HONOURABLE MR JUSTICE N C BROWNE-MARKE  
JUSTICE OF THE SUPREME COURT

I agree



THE HONOURABLE MR JUSTICE E E ROBERTS  
JUSTICE OF THE SUPREME COURT

I agree



THE HONOURABLE MS JUSTICE GLENNA THOMPSON  
JUSTICE OF THE SUPREME COURT