

MISC. APP. SC 1/2018

IN THE SUPREME COURT OF SIERRA LEONE

BETWEEN

CHANG YOUNG CHI & 10 OTHS

APPLICANTS

And

THE INSPECTOR GENERAL OF POLICE

ATTORNEY GENERAL & MINISTER OF JUSTICE

RESPONDENTS

CORAM:

The Hon. Mr Justice D. B. Edwards CJ

The Hon. Ms Justice G. Thompson JSC

The Hon Mrs Justice N. Matturi-Jones JSC

C.F. Margai Esq for the Applicants

O.I. Kanu Esq., Principal State Counsel for the Respondents

RULING DELIVERED ON THE ^{4th} DAY OF *February* 2019

1. This Application by way of Judges Summons dated 15th October 2018 for the orders prayed for on the face of the summons was filed by C.F. Margai and Associates on behalf of the Applicants. The Application is supported by the affidavit and the exhibits attached thereto sworn to by C.F. Margai on the same date. Leave was granted for a supplemental affidavit to be used. That was sworn to and filed by Mr C.F. Margai on the 19th November 2018 to which this court's ruling of the 28th July 2018 is attached as Exhibit CFM13.

2. The Respondent, represented by Mr Osman Kanu and Ms P. Fewry filed an affidavit in opposition with an exhibit attached thereto sworn to by Ms P. Fewry on the 30th October 2018.
3. The pith and substance of this application is for the court to summon the Respondents to appear before this court to assist by means of discovery in aid of execution in the enforcement of the judgement of this court dated 20th March 2018.
4. In support of his application, Mr Margai exhibited letters written to the Financial Secretary CFM7 which is a letter from Mr O. I. Kanu on behalf of the Attorney General dated 27th June 2018, in which Mr Kanu stated that the Attorney General had no objection to the payment of the judgment sum and advised that payment mechanism be put in place to ensure that the sum is paid., Exhibit CFM 4 which is a letter dated 12th April 2018 from the Master and Registrar to the Financial Secretary sending to him various documents including the Certificate of the Order of the Supreme Court, the NRA receipt with face value Le 558,849,400.00, which is the sum that was ordered to be returned to the Applicants.
5. Mr Kanu for the Respondents relied on the affidavit filed and stated that he failed to understand the basis for the application. He stated that the order of the 28th July was very clear and that there is nothing in the State Proceedings Act which states that the Attorney General can be brought to court in aid of execution.
6. To put this present application in context, the Applicants applied to this court by way of Judges Summons dated 22nd June 2018 for an order for the Financial Secretary to be summoned to appear before the court to assist the court by means of discovery and to aid the execution in the enforcement of the judgement of the 20th March 2018. This court ruled on the 28th July 2018, that the party against whom an action of this nature lies is the Attorney General. In that regard, the proper procedure is as laid down in the State Proceedings Act 2000.

Section 24(1) states as follows: *Except as is provided in this section, no execution or attachment or process in the nature thereof shall be issued out of any court for enforcing payment by the Government of any such money*

or costs as are referred to in this section and no person shall be individually liable under any order for payment by the Government or any Government department or officer of the Government as such, of any such money or costs.

7. Simply put, there can be no execution against the government of Sierra Leone, who are the Defendants in this matter, nor can there be any execution against any of its officers in their individual capacity. We note however that the exhibits attached to Mr Margai's affidavit referred to earlier, show that sections 21 (1) and (2) have been complied with.

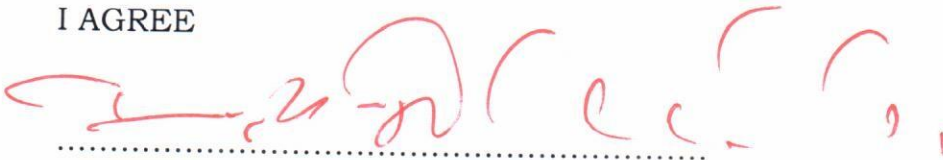
8. Discovery, which the Applicants seek is a pre-trial procedure through which they can obtain evidence from the Respondents. It is a means to an end, the end in this case being "execution in enforcement of the judgement of this court....." The question therefore is that if section 21(4) of the State Proceedings Act prohibits enforcement of a judgement against the government, how does discovery aid the Applicants? The simple answer is that it doesn't. Whilst we understand the Applicants' frustration at the slow pace of recovery, there is simply no point in granting an order which will be an exercise in futility. The application is therefore refused.

9. No order as to costs



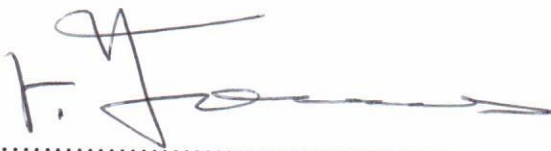
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THE HON. MS. JUSTICE GLENNA THOMPSON, JSC

I AGREE



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THE HON. MR JUSTICE D.B. EDWARDS, CJ

I AGREE



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THE HON. MRS JUSTICE N. MATTURI-JONES, JSC