

SC 11/2020



IN THE SUPREME COURT OF SIERRA LEONE (ORIGINAL JURISDICTION)

IN THE MATTER OF SECTION 21 OF THE 1991 CONSTITUTION OF THE
REPUBLIC OF SIERRA LEONE ACT NO. 6 OF 1991

IN THE MATTER OF SECTION 124(1) OF THE 1991 CONSTITUTION OF
SIERRA LEONE OF THE REPUBLIC OF SIERRA LEONE ACT NO. 6 OF
1991

IN THE MATTER OF SECTION 127 OF THE 1991 CONSTITUTION OF THE
REPUBLIC OF SIERRA LEONE ACT NO. 6 OF 1991

IN THE MATTER OF PART XVI RULES 88-98 OF THE SUPREME COURT
RULES 1982

IN THE MATTER OF ORDER 43
OF THE HIGH COURT RULES 2007

BETWEEN: MUSTAPHA ABU TARRAF

(Suing as

the Attorney of MOHAMED KAMEL WANZA)

- Plaintiff

AND: DR. DENNIS M. SANDY

- 1st Defendant

THE DIRECTOR

OF SURVEYS AND LANDS

- 2nd Defendant

THE ATTORNEY GENERAL

AND MINISTER OF JUSTICE

- 3rd Defendant

CORAM

HON. MR. JUSTICE EKUNDAYO E. ROBERTS

JSC

HON. MR JUSTICE ALLAN B. HALLOWAY

JSC

HON. MR JUSTICE ALUSINE S. SESAY

JSC

HON. MR JUSTICE MANGAY F. DEEN-TARAWALLY

JSC

HON. MR JUSTICE M. SENGU KOROMA

JSC

COUNSEL

P. LAMBERT ESQ. & E. PAPS-GARNON ESQ for the Plaintiff/Applicant

O.I KANU ESQ. & A. CONTEH ESQ. for the Defendants/Respondents

RULING/JUDGEMENT

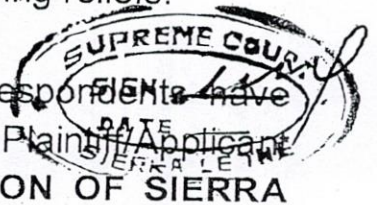
Delivered this 25th day of October 2021

The application herein, dated the 30th October 2020 and made by MUSTAPHA ABU TARRAF, as the Attorney of MOHAMED KAMEL WANZA, seek answers to the following questions and pray for certain reliefs, pursuant to Section 28 and 124 of the CONSTITUTION OF SIERRA LEONE 1991 namely:

1. Whether all that property situate, lying and being at Peninsula Road, Sussex in the Western Area of Sierra Leone, more particularly described and delineated on the survey plan numbered LS 1631/90, being claimed by the Defendants/Respondents is State Land in accordance with the definition in Section 2 of the **STATE LANDS ACT 1960** or any other legislation in Sierra Leone?
2. Whether the entering upon the Plaintiff/Applicant's property aforesaid, by the 1st and 2nd Defendants/Respondents with a group of armed men chasing the workers and security guards, putting up a sign board with the inscription 'THIS IS STATE LAND', is in accordance with the process of compulsory acquisition of property by the GOVERNMENT OF SIERRA LEONE, as provided for under Section 21 of the **CONSTITUTION OF SIERRA LEONE 1991**?
3. Whether the acquisition aforesaid, be it purported or not and the taking of possession of all that property aforesaid, is in compliance with Section 21 of the **CONSTITUTION OF SIERRA LEONE 1991** and or in compliance with the **PUBLIC LANDS ACT CHAPTER 116 OF THE LAWS OF SIERRA LEONE 1960** as amended?
4. Whether the actions of the 1st and the 2nd Defendants/Respondents amounts to depriving the Plaintiff/Applicant of the use and enjoyment of his property, the piece or parcel of land and hereditaments aforesaid?

The Plaintiff/Applicant pray that, in the event that the answers to questions, 1, 2 and 3 are in the negative and the answer to question 4 is in the affirmative, this Court makes the following Declarations and Orders the following reliefs:

1. A Declaration that the 1st and the 2nd Defendants/Respondents have violated the rights of MOHAMED KAMEL WANZA, the Plaintiff/Applicant herein, contained in Section 21 of the **CONSTITUTION OF SIERRA**



LEONE, 1991 in that, DR DENNIS M. SANDY, THE MINISTER OF LANDS, HOUSING AND COUNTRY PLANNING, THE DIRECTOR OF SUEVEYS AND LANDS in the MINISTRY OF LANDS, HOUSING AND COUNTRY PLANNING and the ATTORNEY GENERAL AND MINISTER OF JUSTICE, the Defendants/Respondents herein have forcibly and forcefully and without lawful excuse or authority laid hold of and unlawfully seized and laid claim to all that piece of parcel of land situate, lying and being at Peninsula Road, Sussex in the Western Area of Sierra Leone, the same whereof is owned legally and beneficially by the said Plaintiff/Applicant, the person entitled to possession of the same and who has been the person possessed of and otherwise well and sufficiently entitled to possession of the same for upwards of Thirty (30) years last past at least.

2. A Declaration that the said acts and actions and the several written and oral declarations of the 1st and 2nd Defendants/Respondents are tantamount to a violent wrongful and unlawful deprivation of the property rights of the said Plaintiff/Applicant contrary to the provisions of Section 21 of the **CONSTITUTION OF SIERRA LEONE 1991** and that the said acts and Declarations of the 1st and 2nd Defendants/Respondents are not sanctioned or authorised by the said Constitution nor by the **PUBLIC LANDS ACT CHAPTER 16 of the LAWS OF SIERRA LEONE 1960** as amended, nor by any other law or nor by custom or nor by convention.
3. A Declaration that the acts of violence, the use of force perpetrated and utilised by the 1st and the 2nd Defendants/Respondents with the aid and assistance of armed personnel at the Plaintiff/Applicant's piece or parcel of land aforesaid in the full view of onlookers, amounts to a breach of the peace in terms of the **PUBLIC ORDER ACT 1965** as amended, the state of Emergency which now exists in Sierra Leone and a violent contravention of the oath taken by the said 1st and 2nd Defendant/Respondent on the occasion of his being sworn in as a Minister with Cabinet rank by His Excellency, the President of Sierra Leone, which oath is contained in the Third Schedule to the **CONSTITUTION** aforesaid specifically, the portion where he swore '.... I will support, uphold and maintain the **CONSTITUTION OF SIERRA LEONE** as by law established, so help me God'.
4. A Declaration that the 1st Defendant/Respondent has grossly contravened the provisions of Section 62 of the **CONSTITUTION OF SIERRA LEONE**



1991, in that contrary to the provisions of that Section, he has himself together with others authorised by him, embarked unlawfully on an enterprise which is outside the remit of his office, namely proceeding with armed personnel in a piece or parcel of land owed by a private individual, namely the Plaintiff/Applicant herein, to forcibly seize and take control of the said piece or parcel of land without lawful authority thereby unlawfully wresting away the powers conferred on the Permanent Secretary, in the Ministry of Lands to supervise the daily and physical activities of the said Ministry.

5. A Declaration that the unlawful actions and declarations of the 1st Defendant/Respondent in relation to the Plaintiff/Applicant's ownership of the piece or parcel of land aforesaid are against public policy, in that such actions will encourage the ordinary voting public to believe that, it is permissible conduct for an individual without the support of the law or an order of the Court, to violently take possession of another person's land.
6. A Declaration that the 1st Defendant/Respondent's conduct, actions, words and declarations during his violent attacks on the said property of the Plaintiff/Applicant are not sanctioned nor authorised by any law in force in Sierra Leone. And that if such actions are not stopped, they may result in eternal conflicts between law abiding and law-breaking citizens of this peaceful country.
7. A Declaration that the action of the Defendants/Respondents is unconstitutional and amounts to the deprivation of the right to property of the Plaintiff/Applicant and in contravention of Section 21 of the **CONSTITUTION OF SIERRA LEONE 1991** and its related processes.
8. A Declaration that the Plaintiff/Applicant's piece of parcel of land, situate, lying and being at Peninsula Road, Sussex measuring about 9.3019 acres in area is private land belonging to him and based on Deed of Conveyance made between GHAZI R. FAIAD and MOHAMED KAMEL WANZA dated 15th November 1990 and registered as No. 1602/90 at page 49 in Volume 444 of the Books of Conveyances kept in the office of the Registrar General at Walpole Street Freetown and Judgements of both the High Court of Sierra Leone, delivered on the 23rd March 1994 and the 26th April 2016 and the Court of Appeal of Sierra Leone delivered October 1999.



9. A perpetual injunction restraining the Defendants/Respondents and their successors in office and their servants or agents from entering upon and claiming the Plaintiff/Applicant's piece or parcel of land aforesaid as State Land or in any manner whatsoever, from interfering with its use and enjoyment by the Plaintiff/Applicant.

10. Damages to be paid by the 1st and 2nd Defendants/Respondents for the trespass and the contravention of the Plaintiff/Applicant's fundamental right provided for by Section 21 of the **CONSTITUTION OF SIERRA LEONE 1991**.

11. Any further order or reliefs as this Court may deem fit and just

12. Costs

In support of the application aforesaid, is the affidavit of MUSTAPHA ABU-TARRAF sworn to on the 30th October 2020, to which several exhibits are annexed including the following:

Exhibit '**MAT 1**' being a Power of Attorney executed by MOHAMED KAMEL WANZA, the Plaintiff/Applicant herein, on the 13th April 2011 nominating, appointing and constituting MUSTAPHA ABU-TARRAF as his Attorney,

Exhibit '**MAT 2**' being a Deed of Conveyance dated the 15th November 1990, expressed to be made between MOHAMED GHAZI RACHED FAIAD and the Plaintiff/Applicant herein, duly registered as No. 1602/90 at page 49 in Volume 444 in the Book of Conveyances kept in the Office of the Registrar General in Freetown, in respect of the piece or parcel of land situated at Peninsula Road, Sussex, in the Western Area of Sierra Leone the same delineated on survey plan dated 27th July 1990 and numbered LS 1737/90, plot 1 measuring 8.0549 acres in area and Plot 2 measuring 1.2470 acres in area, the said survey plan which had been earlier approved as private property of MOHAMED GHAZI RACHED FAIAD by a survey plan dated 6th July 1990 and numbered LS 1631/90 and marked Exhibit '**MAT 3**',

Exhibit '**MAT 5**' is a Judgement of the High Court dated 22nd March 1994, confirming a grant to the Plaintiff/Applicant that he Recovers Possession of the piece or parcel of land aforesaid, the said Judgement of the High Court which was upheld at the Court of Appeal as seen in Exhibit '**MAT 6**',



Exhibit 'MAT 8' is a Judgement of the High Court dated the 28th April 2016, adopting the terms of settlement of the matter, Misc. App 223/09 dated 23rd March 2016, the same which inter alia, repeats the acknowledgment that MOHAMED KAMEL WANZA, the Plaintiff/Applicant is the bona fide fee simple owner entitled to permanent ownership and possession of the piece and parcel of land situate at Peninsula Road Sussex Village in the Western Area of Sierra Leone delineated on survey plan dated 27th July 1990 and numbered LS 1737/90, Plot 1 measuring 8.0549 acres in area and Plot 2 measuring 1.2470 acres in area, the said survey plan attached to Deed of Conveyance dated 15th November 1990 and registered as No. 1602/90 at page 49 in Volume 444 of the Book of Conveyances kept in the Office of the Registrar General in Freetown,

Exhibit 'MAT 10' is a letter dated 6th July 2020, on the subject **'PROPERTY SITUATED AT PENINSULA ROAD SUSSEX FREETOWN BELONGING TO MOHAMED KAMEL WANZA'** from OSMAN I. KANU, Principal State Counsel in the Law Officers Department writing for and on behalf of the Attorney General and Minister of Justice on the subject **PERSISTENT TRESPASS ON LAND SITAUTED AT PEINNSULA ROAD, SUSSEX FREETOWN BELONGING TO MOHAMED KAMEL WANZA'**, addressed to PATRICK LAMBERT, the same confirming that the piece or parcel of land aforesaid, is not State Land and is the private property of the Plaintiff/Applicant herein,

Exhibit 'MAT 11' is a letter dated 17th July 2020, from LAMBERT AND PARTNERS, Solicitors for the Plaintiff/Applicant, addressed to the 1st Defendant/Respondent warning him to desist from trespassing on the piece or parcel of land aforesaid and to stop using men and dressed in purported police and military fatigue to forcefully enter the property aforesaid and put the lives of staff employed by the Plaintiff/Applicant to safeguard the said property at risk, failing which, the Plaintiff/Applicant will take immediate action against the 1st Defendant/Respondent in order to protect the said Plaintiff/Applicant's legal rights and interest in the property aforesaid under the Laws of Sierra Leone,

Exhibit 'MAT 12' is a letter dated 6th August 2018, on the subject **TRESPASS ON LAND SITUATED AT PEINNSULA ROAD, SUSSEX FREETOWN BELONGING TO MOHAMED KAMEL WANZA'** from LAMBERT & PARTNERS, addressed to the 1st Defendant/Respondent informing him that the property aforesaid, is not State Land and that his actions amount to Trespass and constitute malicious damage of private property,



Exhibit **'MAT 13'** is a letter dated 14th August 2020, on the subject **'PROPERTY SITUATED AT PENINSULA ROAD SUSSEX FREETOWN BELONGING TO MOHAMED KAMEL WANZA'** from the office of the ATTORNEY GENERAL & MINISTER OF JUSTICE addressed to the 1st Defendant/Respondent in which the Attorney General and Minister of Justice unequivocally stated that, the piece or parcel of land situated at Peninsula Road aforesaid is private land, the Courts having confirmed and recognised that the same belongs to the Plaintiff/Applicant herein,

Exhibits **'MAT 14'** and **'MAT 15¹⁻³⁴'** are photographs depicting the Plaintiff/Applicant's claim that on the instructions of the 1st Defendant/Respondent, persons who entered the piece is parcel of land with the said 1st Defendant/Respondent wrote 'stop work' on the gate of the said property and are photographs depicting the trespass and malicious damage on the said property,

Exhibit **'MAT 16'** is a letter dated 25th August 2020, on the subject **'PROPERTY SITUATED AT PENINSULA ROAD SUSSEX FREETOWN BELONGING TO MOHAMED KAMEL WANZA'** from LAMBERT & PARTNERS addressed to the Attorney General and Minister of Justice reporting the matter aforesaid and pleading with him to prevent further trespass on the Plaintiff/Applicant's property by the 1st Defendant/Respondent, under the guise of acting for and on behalf of the GOVERNMENT OF SIERRA LEONE,

Exhibit **'MAT 18'** is a letter dated 4th September 2020, on the subject **'PROPERTY SITUATED AT PENINSULA ROAD SUSSEX FREETOWN BELONGING TO MOHAMED KAMEL WANZA'** from the Attorney General and Minister of Justice addressed to the 1st Defendant/Respondent, reminding him that the land in question is privately owned as adjudged by the Superior Courts of Judicature in Sierra Leone particularly, the Court of Appeal and the High Court, by which the said piece of land was declared a private land, belonging to MOHAMED KAMEL WANZA, the Plaintiff/Applicant herein, requesting the 1st Defendant/Respondent further to refrain from his conduct on the same and also to show respect to the laws of the land and adherence to the Judgements as pronounced by the Courts,

Exhibits **'MAT 19'** and **'MAT 20'** is a storage pin being a video relating to one of the violent attacks by the 1st Defendant/Respondent on the Plaintiff/Applicant's property aforesaid, which said attacks took place on the 22nd of August 2020.



October 2020 and photos of the violent attacks aforesaid showing the demolition and destruction of the structures on the said property,

In further support of the application herein is the supplemental affidavit of MUSTAPHA ABU TARRAF sworn to on the 9th November 2020. Annexed to the same are the following Exhibits,

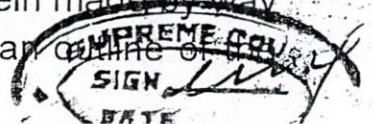
Exhibit '**MAT 22**' being a report dated 21st April 2020, done by SYLVANUS A. LUSANIE, Licensed Surveyor on an investigation of the property at Peninsula Road, Sussex Village aforesaid, the subject matter of the application herein,

Exhibits '**MAT 29**', '**MAT 31**' and '**MAT 32**' are the title Deeds of the Plaintiff/Applicant's predecessors in title in respect of the property at Peninsula Road, Sussex Village aforesaid.

Further to the filing of the application herein by way of an Originating Notice of Motion dated 30th October 2020, an Interlocutory Injunction restraining the Defendants/Respondents herein, whether by themselves, their servants, agents and privies from entering on, dealing or interfering with or selling or disposing of the buildings on the piece or parcel of land at Peninsula Road, Sussex Village in the Western Area of Sierra Leone, which is the subject matter of the application herein, was granted on the 10th February 2021 pending the hearing and determination of the said application on terms that the Plaintiff/Applicant herein files an undertaking in damages should it turn out that the Interlocutory Injunction aforesaid, ought not to have been granted, the said undertaking in damages which was filed by the Plaintiff/Applicant on the 16th February 2021.

By reason of the Defendants/Respondents' failure to comply with the conditions requiring them to file their statement of case, imposed upon them under Rule 92(1) and 92(2) of the **SUPREME COURT RULES 1982** requiring them to file their statement of case within Ten (10) days after the Originating Notice of Motion herein dated 30th October 2020 and the Plaintiff/Applicant's statement of case dated the 9th November 2020 were served on them. Pursuant to Rule 92(3) of the **SUPREME COURT RULES** aforesaid, the REGISTRAR OF THE SUPREME COURT issued a certificate of the Defendant/Respondents non-compliance aforesaid dated 4th March 2021, in this regard.

As deposed to in the affidavit of MUSTAPHA ABU-TARRAF sworn to on the 30th October 2020, the same in support of the application herein made by way of an Originating Notice of Motion dated 30th October 2020, an



uncontroverted facts in relation to the said application are that, on the 12th June 2020, the 1st Defendant/Respondent entered the property of the Plaintiff/Applicant at Peninsula Road, Sussex Village aforesaid, with no indication of what motivated the entry upon the said property. On the 8th July 2020, the 1st Defendant/Respondent again entered the property of the Plaintiff/Applicant aforesaid with armed men dressed with purported police and military fatigue, forcefully removing the guards deployed to secure the property aforesaid and carting away building materials worth millions of Sierra Leone Leones. On this occasion, the 1st Defendant/Respondent also took away the keys to the main gate of the property.

The affidavit of MUSTAPHA ABU-TARRAF aforesaid, deposes further that prior to the dates aforesaid, the 1st Defendant/Respondent uncontrovertibly, had previously entered the property of the Plaintiff/Applicant aforesaid, on the 1st August 2018 with a truck full of police officers, claiming that the same is Government land, the 1st Defendant/Respondent who proceeded to seriously damage the zinc structure which the Plaintiff/Applicant had built on the property aforesaid, for his security guards on the same, the said 1st Defendant/Respondent who then erected a sign post on the property with the inscription 'GOVERNMENT OF SIERRA LEONE MINISTRY OF LANDS HOUSING AND ENVIRONMENT CLAIMED AS STATE LAND DIRECTOR OF SURVEYS AND LANDS. On the 16th July 2020, the 1st Defendant/Respondent once again entered into the property of the Plaintiff/Applicant claiming that the piece or parcel of land is Government land, the said 1st Defendant/Respondent who proceeded to erect sign posts on the property with the inscription '**STATE LAND**'.

Uncontrovertibly, on Tuesday the 25th August 2020, the 1st Defendant/Respondent entered the Plaintiff/Applicant's property at Peninsula Circular Road, Sussex in the Western Area of the Republic of Sierra Leone aforesaid, with about forty (40) armed men dressed in military fatigue with others appearing in the Operational Support Division of the Sierra Leone Police attire and others in civilian attire and broke down three (3) sign posts and damaged the zinc (pan body) structure erected by the Plaintiff/Applicant on the property aforesaid. It remains uncontroverted that during this incident, one of the security personnel accompanying the 1st Defendant/Respondent slapped one Sergeant ALUSINE S. CONTEH 536 who was officially assigned to the property aforesaid, by the SIERRA LEONE POLICE, the said Sergeant ALUSINE S. CONTEH 536 who officially reported the matter aforesaid, to the Adenike Police Station which said matter was referred to the Headquarter of the



LEONE POLICE and statements obtained from witnesses including Sergeant ALUSINE S. CONTEH 536, but which said matter remains under investigations, whilst the 1st Defendant/Respondent continue to threaten the effective possession of the property aforesaid.

Uncontrovertibly, the 1st Defendant/Respondent also instructed some persons that he entered the property with on the 25th August 2020 to write 'stop work' on the gates of the property in bold red paint as shown in Exhibit 'MAT 14¹⁻²', the same being photographs depicting the Plaintiff/Applicant's claim aforesaid, that on the instructions of the 1st Defendant/Respondent, persons who entered the property of the Plaintiff/Applicant aforesaid with the 1st Defendant/Respondent wrote 'stop work' on the gates of the said property, Exhibits 'MAT 15¹⁻³⁴' which are photographs depicting the trespass and malicious damage committed on the property of the Plaintiff/Applicant at Peninsula Circular Road, Sussex Village in the Western Area of Sierra Leone by and under the instructions and supervision of the 1st Defendant/Respondent, Exhibits 'MAT 19' and 'MAT 20' being a video recording with photographs showing one of the violent attacks by the 1st Defendant/Respondent on the Plaintiff/Applicant's property aforesaid, the demolition and destruction of the structures on the said property, the incidents aforesaid, which was reported in local newspapers as seen in Exhibits 'MAT 21¹⁻⁴'.

Uncontrovertibly and as deposed in the affidavit of MUSTAPHA ABU-TARRAF aforesaid, the 1st Defendant/Respondent was always accompanied by one REV DAVID CHAMBERS, who as the Plaintiff/Applicant claims, is a well-known land grabber, the Plaintiff/Applicant who says he cannot fathom the reason why the 1st Defendant/Respondent would be going on the property aforesaid, with him.

Clearly, the uncontroverted facts as outlined above, would be the same as the Plaintiff/Applicant asserting that, his property at Sussex aforesaid, the subject matter of the action herein was compulsorily taken possession of and his interests in or rights over the said property compulsorily acquired by the 1st Defendant/Respondent herein, all in breach of Section 21(1) of the **CONSTITUTION OF SIERRA LEONE 1991**. Further, the uncontroverted facts aforesaid are again the same as the Plaintiff/Applicant asserting that, the 1st Defendant/Respondent forcefully entered his property aforesaid, without his approval and consent, in breach of Section 22(1) of the **CONSTITUTION** aforesaid. This Court holds the view that, it is in this regard that the Plaintiff/Applicant proceeded to file the application herein, pursuant to Section 28(1) of the **CONSTITUTION** aforesaid, the same which provides as follows:

Section 28(1) of the CONSTITUTION of Sierra Leone provides as follows:
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'... If any person alleges that any of Sections 16 to 27 (inclusive) has been, is being or is likely to be contravened in relation to him by any person... then, without prejudice to any other action with respect to the same matter which is lawfully available, that person (or that other person), may apply by Motion to the Supreme Court for redress'.

In this case, the Plaintiff/Applicant asserts that the actions of the 1st Defendant/Respondent as outlined above, contravenes Sections 21(1) and 22(1) of the **CONSTITUTION OF SIERRA LEONE 1991**. It cannot be disputed that the said provisions fall within Sections 16 to 27 of the same. This being the case, the enforcement of and or the interpretation of Sections 21(1) and 22(1) aforesaid which are provisions of the **CONSTITUTION** aforesaid, are matters which would have to be dealt with. By virtue of the fact that the provisions aforesaid are provisions contained in the **CONSTITUTION** aforesaid, the enforcement of and interpretation of the same could only be dealt with by this Court, pursuant to Section 124(1) of the said **CONSTITUTION** which provides thus:

'The Supreme Court shall have original jurisdiction to the exclusion of all other Courts in all matters relating to the enforcement or interpretation of any provision of the CONSTITUTION OF SIERRA LEONE 1991'.

It should be pointed out that, the complaint of the Plaintiff/Applicant is, that the 1st Defendant/Respondent has claimed that the property situate lying and being at Peninsula Road, Sussex in the Western Area of Sierra Leone more particularly described and delineated on the survey plan numbered LS 1631/90 is State Land. The Plaintiff/Applicant on the other hand insists that the said property is his, claiming that by his conduct, the 1st Defendant/Respondent has wrongly construed the enactment which defines what State Land is, his actions regarding the same, which is inconsistent with the provisions of Sections 21(1) and 22(1) of the **CONSTITUTION OF SIERRA LEONE 1991**. Clearly the Plaintiff/Applicant's claim aforesaid is being made pursuant to Section 127(1) of the said **CONSTITUTION** which provides thus:

'A person who alleges that an enactment or anything contained in or done under the authority of that or any other enactment is inconsistent with or is in contravention of a provision of the CONSTITUTION herein, may at any time bring an action in the Supreme Court for a Declaration to that effect.'

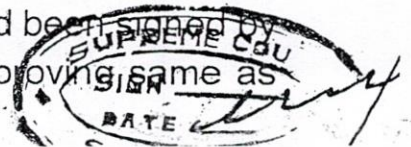


Indeed, the principal question which this Court seeks to answer is, whether or not the property, being the piece or parcel of land and hereditaments situate, lying and being at Peninsula Road, Sussex in the Western Area of Sierra Leone, the subject matter of the application herein is State Land. Section 2 of the **STATE LANDS ACT 1960** defines 'State Land' as follows:

'STATE LANDS mean all lands which belong to the state by virtue of any treaty, cession, convention or agreement and all lands which have been, or may hereafter be acquired by or on behalf of the state for any public purpose or otherwise howsoever and lands acquired under the provisions of the PUBLIC LANDS ACT and include all shores, beaches, lagoons, creeks, rivers, estuaries and other places and waters whatsoever belonging to, acquired by, or which may be lawfully disposed of by or on behalf of the state'....

It is absolutely clear that it has not been shown and that there is no evidence whatsoever suggesting that the property aforesaid, which is the subject matter of application herein belongs to the state by virtue of any treaty, cession, convention or agreement. Rather the Plaintiff/Applicant has sufficiently shown as deposed in the affidavit of MUSTAPHA ABU-TARAFF sworn to on the 30th October 2020, that by virtue of a Deed of Conveyance dated 15th November 1990 expressed to be made between MOHAMED GHAZI RACHED FAIAD and the Plaintiff/Applicant herein duly registered as No. 1602/90 at page 49 in Volume 444 in the Book of Conveyances kept in the office of the Registrar General in Freetown, in respect of the property aforesaid, delineated on survey plan dated 27th July 1990 and numbered LS 1737/90, Plot 1 measuring 8.0549 acres in area and Plot 2 measuring 1.2470 acres in area, the same which is annexed to the affidavit of MUSTAPHA ABU-TARAFF aforesaid and marked Exhibit '**MAT 2**', the Plaintiff/Applicant herein became seized in fee simple of and otherwise well sufficiently entitled to the property, the subject matter of the application herein.

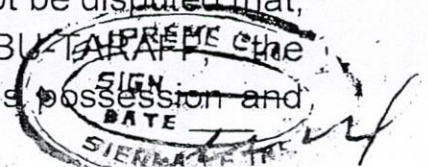
As is deposed to in the affidavit of MUSTAPHA ABU-TARAFF aforesaid, the same which remains unconverted, prior to the delineation of the property, subject matter of the application herein on a private survey plan dated 27th July 1990 and numbered LS 1737/90 and signed by a predecessor-in-office of the 2nd Defendant/Respondent, approving same as private property of the Plaintiff/Applicant herein, the delineation of the said property on another private survey plan dated 6th July 1990 and numbered LS 1631/90, had been signed by a predecessor-in-office of the 2nd Defendant/Respondent, approving same as



private property of MR MOHAMED GHAZI RACHED FAIAD, the immediate predecessor-in-title to the said property of the Plaintiff/Applicant herein. Clearly as deposed to the affidavit aforesaid, it cannot be disputed that the predecessor-in-office of the 2nd Defendant/Respondent in the Ministry of Lands and Surveys as custodians of State Lands, would not have signed the said survey plans and approved same as private property with the full knowledge that the property aforesaid, is State Land.

As submitted by P. LAMBERT ESQ. of Counsel for the Plaintiff/Applicant, the same contained in the Plaintiff/Applicant's statement of case dated 9th November 2020 at paragraph 16, the Ministry of Lands and Surveys should always know from their records and ought never to be in doubt about which lands are State Lands and there certainly ought never to be in a situation where the 2nd Defendant/Respondent including his predecessors-in-office have passed, approved and authenticated a particular survey plan and assigned to it an LS number as being private land, only for the Minister to later claim that such land is State Land, without any supporting evidence whatsoever, the submission aforesaid, which this Court upholds.

As deposed to in the affidavit of MUSTAPHA ABU-TARAFF aforesaid, this Court finds that consistent with the exercise of an owners right to private property as opposed to the exercise of a State owned rights to State Lands, the Plaintiff/Applicant herein after purchasing the said property, which is the subject matter of the application herein from MOHAMED GHAZI RACHED FAIAD, he subsequently leased the same to DOMAINE DE BAW-BAW BEACH COMPANY LTD. in 1991, the said Company who erected villas on the said property, the Lease Agreement aforesaid, which is annexed to the affidavit aforesaid and marked Exhibit 'MAT 4'. Uncontrovertibly and by a Judgement dated 22nd March 1994, the same annexed to the affidavit of MUSTAPHA ABU-TARAFF and marked Exhibit 'MAT 5', the Plaintiff/Applicant was granted the Recovery of Possession of the property aforesaid, from DOMAINE DE BAW-BAW BEACH COMPANY LTD, the said Judgement which the Appeals Court upheld by its Judgement dated 12th October 1999 as seen in Exhibit 'MAT 6', annexed to the affidavit of MUSTAPHA ABU-TARAFF. Prior to the said Judgement by the Court of Appeal, execution of the Judgement of the High Court dated 22nd March 1994 was done and possession of the property at Peninsula Road, Sussex, the subject matter of the application herein, was handed over to the Plaintiff/Applicant herein. Clearly, it cannot be disputed that, as deposed to in the affidavit of MUSTAPHA ABU-TARAFF the Plaintiff/Applicant herein, has since then been in continuous possession and



control of the said property until the 18th August 2018, when the 1st Defendant/Respondent entered the said property, declaring that the same is State Land.

As deposed to in the affidavit of MUSTAPHA ABU-TARRAF aforesaid, the property aforesaid of the Plaintiff/Applicant was the subject of another Court matter between **ALFRED P. JOHNSON (Deceased) & ROBERT JOHNSON** as Plaintiffs and **CHARLES HUMPAH** (both on his own behalf and as Agent for **THEOPHILLUS MASON**), **MOHAMED GHAZI R. FAIAD**, the Plaintiff/Applicant's immediate predecessor-in-title & **MOHAMED KAMEL WANZA**, the Plaintiff/Applicant herein as Defendants, MISC. APP. 223/09 in the High Court of Sierra Leone (unreported), which said matter involved the Plaintiffs in the same disputing rights of the Plaintiff/Applicants herein over the property which is the subject of the application herein. After a full trial of the said matter, as uncontrovertibly deposed to in the affidavit of MUSTAPHA ABU-TARRAF, that the Solicitor for the Plaintiffs in the said matter approached the Solicitors for the Defendants, to explore the possibility of settling the matter out of Court, consequent upon which, settlement was reached in accordance with a Terms of settlement signed by all the parties dated 23rd March 2016, the same annexed to the affidavit aforesaid and marked Exhibit '**MAT 7**'. From the facts as deposed to in the said affidavit, this Court finds that the said Terms of Settlement was adopted by the High Court as a Consent Judgement on the 28th April 2016 and Judgement entered in favour of the Plaintiff/Applicant herein, the same which is annexed to the affidavit of MOHAMED ABU TARRAF and marked Exhibit '**MAT8**', which in part stipulate as follows:

'that ALFRED JOHNSON (Deceased) and ROBERT JOHNSON, the Plaintiffs in the matter aforesaid unanimously, voluntarily, wholly and absolutely accept and acknowledge that MOHAMED KAMEL WANZA 'the 3rd Defendant in the said matter and the Plaintiff/Applicant herein, is the bona fide fee simple owner entitled to permanent ownership and possession of the Two (2) pieces of land situate at Peninsula Road, Sussex Village aforesaid measuring 8.0549 acres (as defined in Plot 1) and 1.2470 acres (as defined in Plot 2) both of which are delineated on survey plan dated 27th July 1990 and numbered LS 1737/90 and attached to a Deed of Conveyance dated 15th November 1990 and registered as No. 1602/90 at page 49 in Volume 444 in the Books of Conveyances kept in the Office of the Registrar General in Freetown and that the said MOHAMED KAMEL WANZA the 3rd Defendant in the matter aforesaid, the Plaintiff/Applicant herein shall have free, undisturbed and quiet enjoyment of the said piece

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or parcel of land free from any encumbrances, restraint, trespass or encroachment from ALFRED JOHNSON (Deceased) and ROBERT JOHNSON, the Plaintiffs in the matter aforesaid, their privies, agents, assigns, servants, relations and or representatives'.

From the affidavit of MUSTAPHA ABU-TARRAF sworn to on the 9th November 2020, this Court finds that, subsequent to the Judgement aforesaid entered in favour of the Plaintiff/Applicant as expressed in Exhibit '**MAT 8**' annexed to the affidavit of MUSTAPHA ABU-TARRAF sworn to on the 30th October 2020, one ANTHONY SAMU filed an application by Notice of Motion dated 11th January 2017, praying for him to be added a Defendant in the matter between **ALFRED P. JOHNSON (Deceased) & ROBERT JOHNSON** as Plaintiffs and **CHARLES HUMPAH (both on his behalf and as Agent for THEOPHILLUS MASON), MOHAMED GHAZI R. FAIAD & MOHAMED KAMEL WANSA**, cited above, a matter for which the Judgement aforesaid was given. From the facts as presented in his affidavit in support of the Notice of Motion aforesaid, marked Exhibit '**MAT 23**' annexed to the affidavit of MUSTAPHA ABU-TARRAF sworn to on the 9th November 2020, the said ANTHONY SAMU claimed that, by reason that he also has a claim over the property which is the subject matter of the action herein, he should have been made a party to the matter for which the Judgement aforesaid was given. ANTHONY SAMU claimed in his affidavit marked Exhibit '**MAT 23**' aforesaid, that it was only one REV. DAVID CHAMBERS who was laying false claims to the property aforesaid, which necessitated him taking a civil action against him. He claimed further that on numerous occasions one PHILIP NEVILLE had met him on the property in question and on a specific day he approached the said PHILIP NEVILLE who then warned him to stay off the said property, PHILIP NEVILLE who then made a report against him for Threatening Remarks and Trespass at the Police. The said ANTHONY SAMU claimed that as a result of the above, the Judgement aforesaid as expressed in Exhibit '**MAT 8**' and annexed to the affidavit of MUSTAPHA ABU-TARRAF sworn to on the 30th October 2020 is a complete error and therefore should be set aside. It cannot be disputed that, there is absolutely no evidence presented that the Judgement aforesaid was set aside or that the said ANTHONY SAMU pursued his claims to ownership of the property aforesaid, against the Plaintiff/Applicant.

This Court holds the view that, may be, the clearest determination to the answer whether the property which is the subject matter of the application herein is state land could be found in Exhibit '**MAT 22**' annexed to the affidavit of MUSTAPHA ABU-TARRAF sworn to on the 9th November 2020. Exhibit '**MAT 22**' is an



uncontroverted report done by one S.A. LUSANIE a Licensed Surveyor after his services were engaged by the Plaintiff/Applicant to investigate the claims made by the 1st and the 2nd Defendants/Respondents that the property aforesaid is State Land. As contained in Exhibit 'MAT 22' aforesaid, the analysis of the survey plans for REV. DAVID CHAMBERS and ANTHONY SAMU, concludes respectively that, the survey plans for BRIAN KELVIN CHAMBERS of 1954 and the survey plan for REV. DAVID CHAMBERS were falsified and that by reason that the LS numbers for 1968 ends at the 1500 series, the survey plan for ANTHONY SAMU numbered LS 2141/68 does not exist and is falsified.

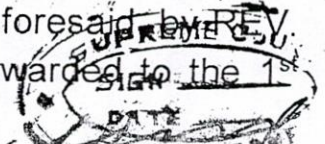
In so far as the claim that the property aforesaid is State Land is concerned, Exhibit 'MAT 22' aforesaid stipulates that the identification of beacon SLS 37/61 normally creates the impression that the property has some connection with Government survey. However, Exhibit 'MAT 22' stipulates further that the investigations indicate that the presence of the Government beacon SLS 37/61 in or around the property in question refers to a survey conducted in 1961 to a piece or parcel of land that was referred to as the Governor's Lodge in accordance with Exhibit 'MAT 22'. The Record Book of Deeds kept in the office of the Director of Surveys and Lands, show that the survey aforesaid, refers to a transfer of land from A.P. BRUNO GASTON conveyed to the Government of Sierra Leone dated 27th June 1961 for a piece or parcel of land at Sussex. Exhibit 'MAT 22' stipulates that this same piece or parcel of land was leased to ARNOLD BISHOP GOODING on the 15th January 1991 and sold to him on the 4th August 1993. It is seen from the attachments, labelled Annexes 1 and 2, to Exhibits 'MAT 22', that the survey plans of ARNOLD BISHOP GOODING, clearly represented the Governor's Lodge defined by Government Beacons numbered SLS 37/61/BP8, SLS 37/61/BP9, SLS 37/61/BP10 and SLS 37/61/B11 against the Plaintiff/Applicants property, the said attachments which clearly show that the Plaintiff/Applicant's property is different, separate and distinct from that of the Governor's Lodge and separated by access roads. Exhibit 'MAT 22' concludes that the Plaintiff/Applicants property is private property and it is not State Land, that the piece or parcel of land purchased by the GOVERNMENT OF SIERRA LEONE in 1961 for the construction of the Governor's Lodge was originally the private property of A.P. BRUNO GASTON, the same which was conveyed to ARNOLD BISHOP GOODING in 1993 and that no claims can be made by REV. DAVID CHAMBERS and ANTHONY SAMU to the property which is the subject matter of the application herein by reason of the defects in their respective survey plans as stated in Exhibit 'MAT 22'.



It cannot be disputed that the above analysis conclusively establish the fact that the property situate at Peninsula Road, Sussex, in the Western Area of Sierra Leone, the subject matter of the application herein cannot be State Land in accordance with the definition in Section 2 of the **STATE LANDS ACT 1960** or any other legislation in Sierra Leone. This Court upholds the submission of P. LAMBERT ESQ. of Counsel for the Plaintiff/Applicant, that the 1st and 2nd Defendants/Respondents failed to produce any evidence in support of the 1st Defendant/Respondent's claim that the said property is State Land. The fact that the property aforesaid, is not STATE LAND has severally been confirmed by the 3rd Defendant/Respondent.

The 3rd Defendant/Respondent is the ATTORNEY GENERAL and MINISTER OF JUSTICE who, in accordance with Section 64(1) of the **CONSTITUTION OF SIERRA LEONE 1991**, shall be the Principal Legal Adviser to the GOVERNMENT OF SIERRA LEONE, including with certainty, the 1st Defendant/Respondent who at the relevant point in time was the Minister of Lands, Housing and Country Planning and a part of Cabinet and by extension part of the GOVERNMENT OF SIERRA LEONE. As submitted by P. LAMBERT ESQ. of Counsel for the Plaintiff/Applicant, the same which this Court sees no reason to overrule, the 3rd Defendant/Respondent has been made a party to the action herein in his capacity as Principal Legal Adviser to the GOVERNMENT OF SIERRA LEONE and also in the light of the exchanges of correspondence between the Solicitor for the Plaintiff/Applicant and himself, the 3rd Defendant/Respondent. Following several complaints made by the Solicitors for the Plaintiff/Applicant herein of the 1st Defendant/Respondent conduct as outlined above, the 3rd Defendant/Respondent made it absolutely and unequivocally clear that the property which is the subject matter of the application herein is Private Property and not STATE LAND as seen in Exhibits 'MAT 10' 'MAT 13' and 'MAT 18' annexed to the affidavit of MUSTAPHA ABU TARRAF.

Exhibit 'MAT 10' is a letter dated 6th July 2020 addressed to PATRICK LAMBERT, LAMBERT AND PARTNERS, the Solicitors for the Plaintiff/Applicant and copied to the 1st Defendant/Respondent herein on the subject 'PROPERTY SITUATED AT PENINSULA ROAD SUSSEX, FREETOWN BEING PRIVATE PROPERTY OF MOHAMED K. WANSA', from OSMAN I. KANU acting for and on behalf of the 3rd Defendant/Respondent acknowledging receipt of certain documents and outlining the facts of an alleged trespass on and malicious damage relating to the property aforesaid by DAVID CHAMBERS, which said documents have been forwarded to the 1st Defendant/Respondent.



Defendant/Respondent, the said OSMAN I. KANU confirming that the said property is private property, the Courts recognising that the same belongs to the Plaintiff/Applicant and that until there is evidence in the nature of a Judgement overturning the decisions of the High Court and the Court of Appeal as seen in Exhibits '**MAT 5**', '**MAT 6**' and '**MAT 8**' annexed to the affidavit of MUSTAPHA ABU-TARRAF sworn to on the 30th October 2020, the property aforesaid remains vested in the Plaintiff/Applicant, confirming that the same is private property.

Exhibit '**MAT 13**' is a letter dated 14th August 2020, addressed to the 1st Defendant/Respondent herein and copied the Solicitors for the Plaintiff/Applicant on the subject '**PROPERTY SITUATED AT PENINSULA ROAD SUSSEX, FREETOWN BEING PRIVATE PROPERTY OF MOHAMED K. WANSA**' from the 3rd Defendant/Respondent herein, expressing his legal opinion on an investigation of the documentary evidence of title of both the Plaintiff/Applicant and REV. DAVID CHAMBERS to the property at Peninsula Road, Sussex, which is the subject matter of the application herein, which both are claiming ownership of, the 3rd Defendant/Respondent concluding that the said property is private property, that the Courts have confirmed and recognised that the same belongs to the Plaintiff/Applicant, that until there is evidence in the nature of a Judgement overturning the above mentioned decision of the High Court, the property aforesaid, will remain to be vested in the Plaintiff/Applicant, the 3rd Defendant/Respondent further advising the 1st Defendant/Respondent that where there is a dispute relating to title to land between private individuals or persons, it is only a court of competent jurisdiction in Sierra Leone that has the constitutional right to adjudicate upon such dispute and not the Ministry of Lands as in this instant case.

Exhibit "**MAT 18**" is a letter dated 4th September 2020 addressed to the 1st Defendant/Respondent herein and copied the Solicitors for the Plaintiff/Applicant herein, on the subject '**PROPERTY SITUATED AT PENINSULA ROAD SUSSEX, FREETOWN BEING PRIVATE PROPERTY OF MOHAMED K. WANSA**', from the 3rd Defendant/Respondent, outlining the various acts of the 1st Defendant/Respondent, the 3rd Defendant/Respondent who claimed the same to be done in the guise of acting for and on behalf of the GOVERNMENT OF SIERRA LEONE and reminding the 1st Defendant/Respondent that the property in question is privately owned, which ought to be interpreted as being neither a State Land nor belonging to the Ministry of Lands, Housing and County Planning as reported to have been inscribed under the instructions and supervision of the said

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Defendant/Respondent, the same which deliberately side step the legal opinion of the 3rd Defendant/Respondent as expressed in Exhibit 'MAT 13' aforesaid, the 3rd Defendant/Respondent entreating the good office of the 1st Defendant/Respondent to kindly refrain from such conduct and to further show respect to the laws of the land and adherence to the Judgements as pronounced by the Courts.

Clearly, the above determines that the property at Peninsula Road, Sussex aforesaid, which is the subject matter of the application herein is not STATE LAND but privately owned. This Court holds the view that the question asked for which the answer aforesaid is given seems to be incomplete. This is so by reason that, if we categorically state that a piece or parcel of land in privately owned, even though it is conclusive that it is not STATE LAND, the recipient of that categorised statement aforesaid, would want to know who privately owns the piece or parcel of land in question. Undisputedly, it is the Courts that would have to answer the question aforesaid. This Court will be remiss in its duty if it simply determines that the property aforesaid, which is the subject matter of the application herein is not STATE LAND and fails to determine and declare ownership of it. If it fails in this regard, further litigation is absolutely possible after it will have determined that the said property is not STATE LAND in view of the fact that apart from the Plaintiff/Applicant herein, Two (2) other contenders claiming ownership of the said property, in persons of ANTHONY SAMU and REV. DAVID CHAMBERS have emerged. In so far as the Plaintiff/Applicant is concerned, this Court needs to ascertain whether as is deposed to in the affidavit of MUSTAPHA ABU TARRAF sworn to on the 30th October 2020, ownership of the property aforesaid, has been judiciously declared and confirmed in favour of the Plaintiff/Applicant.

As regards the claim for ownership of the property aforesaid, which is the subject matter of the application herein between ANTHONY SAMU and REV. DAVID CHAMBERS, ANTHONY SAMU had claimed, as seen in Exhibit 'MAT 23' annexed to the affidavit of MUSTAPHA ABU TARRAF sworn to on the 9th November 2020, that he took civil action against REV. DAVID CHAMBERS. He claimed further that based on the investigations conducted by DONALD JONES, the then Assistant Director of Surveys and Lands and CHARLES A. SENESIE a Technical Officer attached to the Ministry of Lands, it was concluded that by their report annexed to the affidavit of MUSTAPHA ABU TARRAF aforesaid marked Exhibit 'MAT 25', the rightful owner of the property aforesaid, is FODAY JOHN SAMU (Deceased) represented by ANTHONY SAMU (next of kin). Unfortunately, this is only as far as it went. It is not known what became of

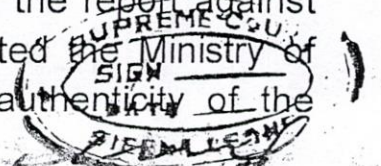
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the action which the said ANTHONY SAMU claims to have been brought against REV. DAVID CHAMBERS as deposed to by the said ANTHONY SAMU in his affidavit aforesaid, neither has it been shown that ownership of the property aforesaid has been judiciously declared and confirmed by the Courts in favour of ANTHONY SAMU.

As regards the claim of ownership of the said property between ANTHONY SAMU and the Plaintiff/Applicant herein, it cannot be disputed that, other than the fact that the said ANTHONY SAMU applied to the Courts to be added as a Defendant in the matter between **ALFRED P. JOHNSON (DECEASED) & ROBERT JOHNSON** as Plaintiffs and **CHARLES HUMPAH, MOHAMED GHAZI R. FAIAD & MOHAMED KAMEL WANSA** cited above, nothing further was done by the said ANTHONY SAMU in pursuance of his claim to ownership of the property. As was stated above, notwithstanding the fact that he claimed ownership of the property aforesaid, pursuant to which, as he says, he ought to have been made a party to the matter aforesaid and the Judgement in the matter aforesaid. set aside, there is absolutely no evidence presented that the said Judgement was set aside or that the said ANTHONY SAMU pursued his claims to ownership of the property aforesaid and ownership in his favour judiciously declared. The reasons for his failure to pursue his claims to ownership of the said property can very simply be discerned from the facts as presented.

It is seen from Exhibit '**MAT 23**' annexed to the affidavit of MUSTAPHA ABU TARAFF sworn to on the 9th November 2020, that ANTHONY SAMU had stated that he came to realise that REV. DAVID CHAMBERS was falsely laying claims to the property which is the subject matter of the application herein, sometime in 2015 and that as a result he made a report against REV. DAVID CHAMBERS at the Adonkia Police Station who commenced investigations, the case file of which was subsequently transferred to Lumley Police Station for further investigations and that the section at the Lumley Police station responsible for land grabbing requested the Ministry of Lands for an expert opinion. It is seen further from Exhibit '**MAT 23**' aforesaid that ANTHONY SAMU stated that one PHILIP NEVILLE made a report against him for threatening remarks and Trespass as a result of which he was invited by the police which said invitation he honoured and statement was obtained against him, but that since then he has not heard from the police.

It is seen from Exhibit '**MAT 24**', that the police to whom, the report against ANTHONY SAMU was made by the said PHILIP requested the Ministry of Lands for an expert opinion as regards inter alia the authenticity of the



documents submitted by all parties and the rightful owner of the property which is the subject matter of the application herein. Exhibit '**MAT 24**' is a memorandum dated 5th September 2016 from the Head of Crime Management of the Sierra Leone Police to the Director of Surveys and Lands requesting the expert opinion aforesaid.

As seen from Exhibit '**MAT 24**' aforesaid, several documents were submitted by the said PHILIP NEVILLE, for and on behalf of MOHAMED KAMEL WANSA, the Plaintiff/Applicant herein, by LAMBERT & PARTNERS for and on behalf of the said Plaintiff/Applicant and by ANTHONY SAMU himself. Obviously, by reason of the fact that uncontrovertibly and as seen from Exhibit '**MAT 24**', the said ANTHONY SAMU was copied Exhibit '**MAT 24**', it cannot be true that as stated by him in Exhibit '**MAT 23**', he did not hear from the police since the report by the said PHILIP NEVILLE against him for Threatening Remarks and Trespass was made.

This Court holds the view that, it is the falsity of the statement made by ANTHONY SAMU, that he did not hear from the police since the report by the said PHILIP NEVILLE against him was made, that exposed the reasons for his failure to pursue his claims to ownership of the property, which is the subject matter of the application herein and exposed the complicity of the officials of the Ministry of Lands to distort the facts. As stated above, ANTHONY SAMU made a report in 2015 against REV. DAVID CHAMBERS in respect of the said property and that subsequently the police to whom the report aforesaid, was made sought the expert opinion of the Ministry of Lands. As stated above further, subsequent to the report made by the said PHILIP NEVILLE for and on behalf of the Plaintiff/Applicant herein against ANTHONY SAMU, the police to whom the said report was made, sought the expert opinion of the same Ministry of Lands in respect of the same property aforesaid on the 5th September 2016 as seen from 'Exhibit '**MAT 24**' aforesaid. Clearly, at the particular point in time, the Ministry of Lands had with them Two (2) separate and distinct request for expert opinion in respect of the same property aforesaid, the 1st report made by ANTHONY SAMU and the subsequent one made against ANTHONY SAMU. It cannot be disputed that, the so-called experts in the Ministry of Lands gave expert opinion on the first request and declared ANTHONY SAMU to be the owner of the property aforesaid on the 14th November 2016 as seen in Exhibit '**MAT 25**' annexed to the affidavit of MUSTAPHA ABU TARRAF sworn to on the 9th November 2020 but to date and since 5th September 2016 have failed to give any expert opinion on the subsequent request made on a report against the said ANTHONY SAMU.

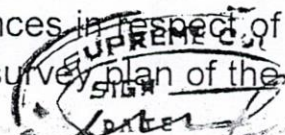
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This Court holds the view that the failure of the so-called experts in the Ministry of Lands to give expert opinion on the request made by the Police regarding the report made by PHILIP NEVILLE against ANTHONY SAMU seems suspicious and casts considerable doubts on the expert opinion given on the 14th November 2016 as seen in Exhibit '**MAT 25**' aforesaid.

This Court holds the view that, it cannot be far from the truth to say that, it is principally, by reason that officials of the Ministry of Lands gave expert opinion on the request made by the Police regarding the report made by ANTHONY SAMU against REV. DAVID CHAMBERS as seen in Exhibit '**MAT 25**' aforesaid, but failed to give expert opinion on the request made by the Police regarding the report made by PHILIP NEVILLE for and on behalf of MOHAMED KAMEL WANZA the Plaintiff/Applicant herein, against the said ANTHONY SAMU, that provoked the said Plaintiff/Applicant to employ the services of S.A. LUSANIE, a Licenced Surveyor to investigate the question of ownership of the property, which is the subject matter of the application herein, the said S.A. LUSANIE who reported on the same as seen in Exhibit '**MAT 22**' aforesaid.

Clearly, it cannot be disputed that, by reason of the fact that since the documents submitted by ANTHONY SAMU on the report made by him would be the same documents submitted by him in respect of the report made against him, the Expert opinion given, as contained in Exhibit '**MAT 25**' aforesaid, that ANTHONY SAMU in the owner of the property aforesaid, it is expected that the expert opinion which was to be given regarding the report against ANTHONY SAMU would be the same as the one already given. Unfortunately, expert opinion in this regard was not given. Regarding the contents of Exhibit '**MAT 25**', it cannot be disputed though that, a Licenced Surveyor given the same circumstance would arrive at the same results as in Exhibit '**MAT 25**' aforesaid, in respect of both the reports, that being ANTHONY SAMU is the owner of the property aforesaid. Unfortunately, this is not the case when S.A. LUSANIE, a Licenced Surveyor investigated ownership of the said property given the same circumstances and declared that the survey plan of the said ANTHONY SAMU presented by him in respect of the said property numbered LS 2141/68 did not exist and was falsified as seen in Exhibit '**MAT 22**' aforesaid.

As stated in Exhibit '**MAT 25**' aforesaid, that the survey plan presented by ANTHONY SAMU and attached to a conveyance dated 3rd April 1971 and registered in Volume 246, page 42 in the Books of Conveyances in respect of the property aforesaid is numbered LS 214/68 whereas, the survey plan of the



said ANTHONY SAMU presented to the said S.A. LUSANIE in respect of the same property is numbered LS 2141/68. Clearly, it is impossible for ANTHONY SAMU to have presented Two (2) distinct survey plans bearing Two (2) different and distinct numbers in respect of the same property which is the subject matter of the application herein. The pertinent question then is as follows:

'was it the survey plan numbered LS 214/68 which as stated by CHARLES A. SENESIE, a Technical Officer in the Ministry of Lands and Surveys, in Exhibit 'MAT 25' aforesaid, the said Technical Officer who prepared and submitted Exhibit 'MAT 25', be the survey plan attached to the Conveyance dated 3rd April 1971'?

Unfortunately and on a search at the Registry, this Court found that, no Conveyance whatsoever was registered in Volume 246 page 42 in the Book of Conveyances. A search of the index at the Registry revealed that no Conveyance dated 3rd April 1971 and made between SAMUEL JOHNSON and FODAY JOHN SAMU in respect of and situated at Peninsula Road, Sussex aforesaid, was entered as registered. Further to the findings of this Court aforesaid, from the returns sent by the Ministry of Lands to the Registrar General about surveys done and survey plans signed by Director of Surveys in the Ministry of Lands and Surveys and from enquiries made from the Ministry of Lands and Surveys, this Court found that the survey plan numbered LS 214/68 was surveyed in the name of JOHN MOMOH rather than in the name of FODAY JOHN SAMU as stated by CHARLES A. SENESIE, in Exhibit 'MAT 25' aforesaid. This Court found further that, contrary to the assertion by CHARLES A. SENESIE, in Exhibit 'MAT 25' aforesaid, that the piece or parcel of land for which the survey plan numbered LS 214/68 was done is located at Peninsular Road Sussex, at the same location where the property which is the subject of the application herein is located, the piece or parcel of land for which the survey plan numbered LS 214/68 was done is located at George Brook, Freetown. The findings above explains why a search at the Registry, revealed no Conveyance whatsoever registered in Volume 246 page 42 in the Book of Conveyances because if such a Conveyance actually existed, it is the survey plan numbered LS 2141/68, that would be attached to it. But since it is apparent that, no returns would have been sent by the Ministry of Lands to the Registrar General about this survey done and signed by Director of Surveys in the Ministry of Lands and Surveys, by reason that the last survey done in 1968 as determined from the records at the Ministry of Lands, is survey plan numbered LS 1124/68, no Conveyance whatsoever would be registered.

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Clearly the findings above, not only casts considerable doubts as to the veracity of the findings as contained in Exhibit 'MAT 25' aforesaid and erodes the integrity and confidence placed in the expertise of the officials of the Ministry, it makes a complete nonsense of Exhibit 'MAT 25' making the same a completely worthless and useless piece of document. It is obvious then that, if officials of the Ministry of Lands were to proceed to use the same questionable documents above which is stated above would have been the same documents submitted as regards the reports made against him by the said PHILIP NEVILLE and confirmed as is seen in Exhibit 'MAT 24' to conclude the said report made against ANTHONY SAMU, the said officials of the Ministry of Lands would have been forced to come out with a conclusion similar to the one regarding the report made by ANTHONY SAMU against REV. DAVID CHAMBERS. This Court holds the view that by reason of all the circumstances outlined above, the said officials of the Ministry of Lands would definitely have been unable to declare ANTHONY SAMU the owner of the property at Sussex Village aforesaid, the subject matter of the application herein, the same which would have been contradictory to their first expert opinion given. It cannot be disputed therefore that because they knew that they would contradict themselves as regards their expert opinion as to the ownership of the property aforesaid, their failure to give any expert opinion on the request made by the Police regarding the complaint made by PHILIP NEVILLE against ANTHONY SAMU was deliberate, surreptitious and extremely unprofessional.

This Court holds the view that, it is obvious from the above analysis that, undisputedly, a judicious claim for ownership of the property at Sussex Village, the subject matter of the application herein, would definitely not even be attempted by REV. DAVID CHAMBERS against the Plaintiff/Applicant herein, or any other contender who claims ownership of the property aforesaid, since such judicious claim would woefully fail even before it would have started. Irrefutable proof if this Courts view above aforesaid, could be found in the fact as incontrovertibly and substantially deposed in the affidavit of MUSTAPHA ABU TARRAF, that the 1st Defendant/Respondent on his several visits and encounters on the property aforesaid as outlined above, he was always accompanied by REV. DAVID CHAMBERS. Certainly, it cannot be said that REV. DAVID CHAMBERS was seen in the company of the 1st Defendant/Respondent in such circumstance aforesaid, to assist the GOVERNMENT OF SIERRA LEONE through the 1st Defendant/Respondent to compulsorily acquire or allegedly reclaim the property aforesaid as State Land. Obviously, the GOVERNMENT OF SIERRA LEONE has its own resources in this regard, such resources which certainly do not include

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CHAMBERS. The presence of REV. DAVID CHAMBERS in the so-called compulsory acquisition of or the alleged reclaiming of the property aforesaid as State Land would be fully explained hereunder at some other stage. What is relevant here is the fact that if the above was an attempt to claim the ownership of the property aforesaid judiciously, REV DAVID CHAMBERS would not have been in the company of the 1st Defendant/Respondent but rather in the Courts filing papers claiming for a Declaration of the title to the said property.

Further proof of this Court's view that REV. DAVID CHAMBERS would not even attempt to claim ownership of the property in question judiciously is by reason of the fact as deposed to in the affidavit of MUSTAPHA ABU TARRAF sworn to on the 9th November 2020, the principal documents which the said REV. DAVID CHAMBERS would have used to judiciously bring a claim for Declaration of title to the property aforesaid had been found to be unauthentic. It is seen from Exhibit '**MAT 22**' annexed to the affidavit of MUSTAPHA ABU TARRAF, the same being a report of an investigation done by S.A. LUSANIE, a Licenced Surveyor, dated 21st April 2020, regarding ownership of the property aforesaid, it was uncontrovertibly determined that the survey plan for REV. DAVID CHAMBERS were all falsified. The determination aforesaid is confirmation of the report of the Ministry of Lands of their expert opinion on the request of the Police regarding the report made by ANTHONY SAMU against REV. DAVID CHAMBERS of Trespass on the property at Sussex which is the subject matter of the application herein as seen in Exhibit '**MAT 25**' annexed to the affidavit of MUSTAPHA ABU TARRAF. Uncontrovertibly the findings as contained in Exhibit '**MAT 25**' aforesaid, show that the beacon numbers found in all survey plans relied upon by the said REV. DAVID CHAMBERS when plotted falls at Hill Cut Road, Freetown at Off Railway Line Tengbeh Town – Wilberforce and at Aberdeen Ferry Road Murray Town. None of the beacon numbers fall on the land at Sussex aforesaid and some could not be found in the Record Books at the Ministry of Lands.

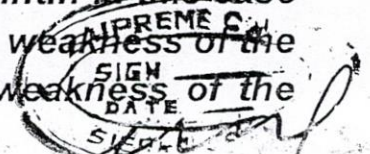
It was stated above that this Court will be remiss in its duty if it simply determines that the property at Sussex Village, being the subject matter of the application herein is not State Land but privately owned, by reason that further litigation is absolutely possible after it would have determined that the said property is not State Land. The above analysis is geared to show that in so far as ownership of the property aforesaid is concerned, ANTHONY SAMU and REV. DAVID CHAMBERS are persons who are potential claimants of ownership of the said property. However, the above analysis successfully and abundantly makes it clear that both ANTHONY SAMU and REV. DAVID CHAMBERS substantially

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lack what it takes to have them judiciously declared as title owners of the property aforesaid. This Court now turns its attention to the Plaintiff/Applicant. This Court finds that the statement that, ownership of the property aforesaid has been judiciously declared and confirmed in his favour as deposed to in the affidavit of MUSTAPHA ABU TARRAF sworn to on the 30th October 2020 cannot be true. This however does not mean that by the evidence submitted the said Plaintiff/Applicant is not entitled to a Declaration of title in respect of the said property. It is absolutely necessary that, this Court considers the evidence on the whole and determine whether or not the Plaintiff/Applicant is entitled to such a Declaration.

This Court holds the view that the Plaintiff/Applicant's contention that he has been judiciously declared owner of the said property is borne out of the fact that by a Judgement of the High Court dated 28th April 2016 as seen in Exhibit 'MAT8' annexed to the affidavit of MUSTAPHA ABU TARRAF sworn to on the 30th October 2021, the Plaintiffs in the matter between **ALFRED P. JOHNSON (DECEASED) & ROBERT JOHNSON** and **CHARLES HUMPAH, MOHAMED GHAZI R. FAIAD & MOHAMED KAMEL WANSA**, cited above, unanimously, voluntarily, wholly and absolutely accepted and acknowledged that the Plaintiff/Applicant herein is the bona fide fee simple owner entitled to permanent ownership and possession of the property at Sussex, the subject matter of the application herein. It cannot be disputed that the said Judgement is an expression made by the Plaintiffs in the matter aforesaid, that they do not challenge the title of the Plaintiff/Applicant herein to the property at Sussex aforesaid. In the case between **SORIE TARAWALLY** and **SORIE KOROMA** S.C CIV. APP 7/2004, in the Supreme Court of Sierra Leone (unreported), **A. RENNER-THOMAS CJ**, stated that it is not sufficient for a Plaintiff's claim for a declaration of title to land to be supported by uncontroverted evidence simpliciter, to entitle that Plaintiff to such a declaration. He continued by saying that in a long line of cases reviewed by the Supreme Court, it has been established that in an action for a declaration of title, the Plaintiff must succeed on the strength of his title and not on the weakness of the Defendant's title. He stated that in other words, as stated by **WEBBER CJ** in delivering the Judgement of the West African Court of Appeal in the case between **KODOLINYE** and **ODU** (1935) 5 WACA 336 at p 337 – 338,

'The onus lies on the Plaintiff to satisfy the Court that he is entitled on the evidence brought by him to a declaration of title. The Plaintiff in this case must rely on the strength of his own case and not on the weakness of the Defendant's case. If this onus is not discharged, the weakness of the



Defendants' case will not help him and the proper judgement is for the Defendants'...

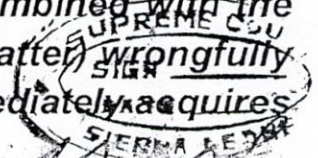
The pertinent question then is 'what must a Plaintiff who claims or a Defendant who counter claims for a Declaration of title prove to be entitled to the same'? In the case between **SORIE TARAWALLI** and **SORIE KOROMA** cited above, **A. RENNER-THOMAS CJ**, in answer to the question aforesaid, drew a distinction between a documentary or paper title on the one hand and a possessory title on the other hand stating that for a person relying on a paper title, he must be able to trace his title to some grant by the Crown or the State. It cannot be disputed that the Plaintiff/Applicant is not relying on a documentary or paper title, in which case this Court will not require him to trace his title to some grant by the GOVERNMENT OF SIERRA LEONE for it to make a Declaration of title to the property aforesaid in his favour.

On the other hand and in the case between **SORIE TARAWALLI** and **SORIE KOROMA** cited above **A. RENNER-THOMAS CJ** stated that, a Plaintiff who relies on the fact of possession by himself or his predecessors in title must prove more than just mere possession to be entitled to a declaration of title. He must prove that he has a better title not only against the Defendant but that there is no other person having a better title than himself. In answer to his question, 'How then can he prove this'? **A. RENNER-THOMAS CJ** stated that, he can do this by showing that the title of the true owner has been extinguished in his favour by the combined effect of adverse possession and the limitation statute. Section 5(3) of the **STATUTE OF LIMITATION ACT 1961** provides as follows:

'No action shall be brought by any other person to recover any land after the expiration of Twelve (12) years from the date on which the right of action accrued to him or if it first accrued to some person through who he claims to that person'.

In the case between **SORIE TARAWALLI** and **SORIE KOROMA** cited above, **A. RENNER-THOMAS CJ** stated that, the nature of the root of possessory title is thus explained by **MEGARRY** and **WADE** at page 1004 in the 4th Edition of **THE LAW OF REAL PROPERTY** as follows:

'Limitation is thus not per se a mode of transferring property from one person to another. But it may operate as such when combined with the principle that adverse possession gives a title. If S (squatter) wrongfully takes possession of land belonging to O (owner), O immediately acquires'



a right of action against S for recovery of land. If O takes no action in Twelve (12) years (normally) his right of action becomes barred and his title extinguished by limitation. S can no longer be disturbed by O and as against all the world except someone having a better legal right to possession'.

In his statement of case dated 9th November 2020, submitted to this Court for and on behalf of the Plaintiff/Applicant, P. LAMBERT ESQ. submitted at paragraph 18, page 6 of the same that this Court will note and it so notes that the predecessors in title of GHAZI R. FAIAD, the immediate predecessor in title to the property at Sussex which is the subject matter of the application herein, do not have any documentary title for the property which they sold to him and that their title is possessory. Notwithstanding his submission aforesaid, this Court holds the view that it would be absolutely incorrect to say that the Plaintiff/Applicant herein or his predecessors in title relies on the fact of possession, by reason that, from the evidence adduced herein in its entirety, it is conclusive of the fact that the property at Sussex, the subject matter of the application herein was not acquired by neither the Plaintiff/Applicant nor his predecessors in title by adverse possession, in which case, the requirement that the Plaintiff/Applicant must show that the title of the true owner has been extinguished in his favour by the combined effect of adverse possession and Section 5(3) of the **STATUTE OF LIMITATION ACT 1961** above, would be completely unnecessary. All that the Plaintiff/Applicant would be required to show in this case, is by tracing his title to the property aforesaid, to the true owner.

It is seen from 'Exhibits **MAT 29, 30, 31 and 32**', annexed to the affidavit of MUSTAPHA ABU TARRAF sworn to on the 9th November 2020, that MOHAMED GHAZI FAIAD, the Plaintiff/Applicant's immediate predecessor in title to the property at Sussex Village, subject matter of the application herein, purchased part of the said property from THEOPHILUS MASON and the rest from JANET JOHNSON. As seen from Exhibit '**MAT 32**' aforesaid, the portion of the said property which THEOPHILUS MASON sold to MOHAMED GHAZI FAIAD was conveyed to him, the said THEOPHILUS MASON by way of a Deed of Gift by JANET JOHNSON on the 2nd March 1989, the said THEOPHILUS MASON who in turn conveyed the same to MOHAMED GHAZI FAIAD on the 6th March 1989 as seen from Exhibit '**MAT 29**' supplemental to which is a Conveyance dated the 31st October 1990, as seen in Exhibit '**MAT 30**'. The rest of the said property sold to MOHAMED GHAZI FAIAD was conveyed by THEOPHILUS MASON on the 11th July 1990 as seen in Exhibit '**MAT 31**' aforesaid. It cannot

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be disputed that the original owner of the entire property aforesaid was JANET JOHNSON who conveyed parts of it to THEOPHILUS MASON by way of a Deed of Gift on the 2nd March 1989 as seen in Exhibit 'MAT 32' aforesaid and conveyed the rest to GHAZI R. FAIAD on the 11th July 1989 as seen in Exhibit 'MAT 31'. In both Exhibits 'MAT 31' and 'MAT 32', parts of the recitals state that JANET JOHNSON as at the 11th July 1989 and the 2nd March 1989 respectively, had been seized of or otherwise well and sufficiently entitled to the property at Sussex aforesaid, which is the subject matter of the application herein having been in full, free undisturbed and uninterrupted possession thereof for a period of well over forty (40) years.

There is absolutely no evidence disputing the fact that the said JANET JOHNSON had been in possession of the said property for over forty (40) years prior to the 11th July 1989. There is further, absolutely no evidence adduced showing that her possession thereof was interrupted by anyone during this period. It also cannot be disputed that, in view of the circumstances aforesaid, JANET JOHNSON can be considered the 'TRUE OWNER' of the property aforesaid, having undisputedly shown long and uninterrupted possession of the same, notwithstanding the fact that she had no documents of title in respect of the said property. Notwithstanding the fact, that the Plaintiff/Applicant would successfully be able to trace his title to the property aforesaid, to the true owner of the same, he would still have to show how he can be declared the owner of the said property which is the subject matter of the application herein, when the true owner of the said property has long and uninterrupted possession but had no documents of title. In this regard, there is yet one more situation existing in the applicable law in Sierra Leone where title to land in the Western Area can be acquired by long possession without any documents of title to show for such long possession. The following comment by LIVESEY-LUKE CJ in the course of his Judgement in the case between SEYMOR WILSON and MUSA ABESS cited above is appropriate in this regard:

'... It is a matter of common knowledge that most of the lands in the Western Area outside the city of Freetown are based on possessory title and most of them are not covered by any title deeds. That situation is the result of the history of land holding established in the Western Area about two centuries ago. The system which has been in operation in the Western Area since founding of the colony (now Western Area) is that land passes within the same family from one generation to another, in many cases without the existence of any document of title. Indeed the Courts in Sierra Leone have on innumerable occasions decided in favour of owners of a

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possessory title without documents of titles, as against the holders of registered Conveyances'.

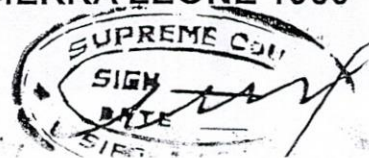
In the 1st Edition of **LAND TENURE IN SIERRA LEONE** by **ADE RENNER-THOMAS** on '**LONG POSSESSION AND THE ACQUISITION OF TITLE TO LAND IN THE WESTERN AREA**' under the rubric '**Introduction**' at paragraph 5.4.1, page 126, it is stipulated that, these very revealing words of **LIVESEY-LUKE CJ** above, confirm the fact that in the Western Area of Sierra Leone, judicial recognition has long been given to evidence of possession as a means of establishing title to land in this part of the country. It cannot be disputed that the property which is the subject matter of the application herein is situated at Sussex Village in the Western Area of Sierra Leone outside the city of Freetown. It cannot be disputed further that the Plaintiff/Applicant purchased the said property from **GHAZI RACHED FAIAD** who in turn bought the same from **JANET JOHNSON** and **THEOPHILUS MASON**. It cannot be disputed also that before executing a Deed of Gift in favour of her son **THEOPHILUS MASON** who in turn executed a Conveyance in favour of the said **GHAZI RACHED FAIAD** and before executing a Conveyance in favour of the said **GHAZI RACHED FAIAD**, **JANET JOHNSON** had no document of title to the property aforesaid. It cannot be disputed that **JANET JOHNSON** was a resident of Sussex Village and had been, in possession of the said property for upwards of forty (40) years prior to 1989. It cannot be disputed further that, the said **JANET JOHNSON** had been in continuous and uninterrupted possession of the same during this period. It cannot be disputed also that that there is no evidence contradicting the fact that prior to **JANET JOHNSON** obtaining possession of the said property, it was her parents or other relatives who were in possession of the same. These undisputed facts being the case and in line with the comments made by **LIVESEY-LUKE CJ** in the case between **SEYMOUR WILSON** and **MUSA ABESS** cited above, it is apparent that, the Court would in the circumstance declare ownership of the property aforesaid in favour of the Plaintiff/Applicant whose predecessors-in-title had possessory title to the said property without documents of title of any kind. In the case between **MOHAMED GHAZI R. FAIAD & ANOTHER** and the **ATTORNEY GENERAL AND MINISTER OF JUSTICE & ANOTHER** S.C 6/2009 in the Supreme Court of Sierra Leone (unreported), **G.B SEMAGA-JANNEH JSC** had this to say:

'the Plaintiff's title is traced through a chain of conveyance, about four (4) in number spanning from the 29th April 1961 to the 28th February 1997. The Plaintiffs had several predecessors-in-title and have been in possession in excess of forty (40) years. During the period the land was completely



developed with structures and chalets and the premises for a considerable period of time was operated as a hotel paying outgoings, rates and taxes without let or hindrance or by anyone until the advent of the 2nd Defendant in the scene. Prior to the Conveyance of the suit land to CORNELIUS AUGUSTINE HARDING, the suit land was in the possession of the villages of Tokeh in the Western Region. It is a historical fact that such lands were and continued, in the possession of the villages and used by village family units or village individuals or communally for residence, farming, commerce etc. It is irrelevant for the discourse on possession or ownership, whether the suit land is labelled 'community land'. In my view it is the historical realities that mattered. I am therefore of the considered opinion that the villagers of Tokeh, by their representatives had title which they properly passed unto HON. MR. JUSTICE CORNELIUS AUGUSTINE HARDING'.

By reason of the above, the Plaintiffs in the case aforesaid, were declared the fee simple owners of the suit land aforesaid, by the Supreme Court of Sierra Leone. Likewise in the matter herein, this Court holds the view that the Plaintiff/Applicant is entitled to be declared the fee simple owner of the property at Peninsula Road, Sussex in the Western Area of Sierra Leone, delineated on survey plan dated 27th July 1990 and numbered LS 1737/90, the same being a certified true copy of survey plan numbered LS 1631/90, by this Court. Consequently in answer to the question asked of this Court, whether the property aforesaid is 'STATE LAND' in accordance with the definition of Section 2 of the STATE LANDS ACT 1960 or any other legislation in Sierra Leone, this Court emphatically states that the said property is not 'STATE LAND' and is privately owned by MOHAMED KAMEL WANZA the Plaintiff/Applicant herein. Having answered the above question, this Court now turns its attention to answering the question whether the entering upon the Plaintiff/Applicant's property as determined aforesaid, by the 1st and 2nd Defendants/Respondents with a group of armed men, chasing the workers and security guards employed by the said Plaintiff/Applicant and putting up a sign board with the inscription 'THIS LAND IS STATE LAND' and whether the acquisition aforesaid, be it purported or not and the taking of possession of all that property aforesaid, is in accordance with the process of compulsory acquisition of property by the GOVERNMENT OF SIERRA LEONE as provided under Section 21 of the CONSTITUTION OF SIERRA LEONE 1991 and or in compliance with the PUBLIC LANDS ACT, CHAPTER 116 of the LAWS OF SIERRA LEONE 1960 as amended.



It should be pointed out at the very onset that, the uncontroverted conduct of the 1st Defendant/Respondent outlined above, cannot be a situation where the same is likened to him reclaiming State Land. It has been determined above that since upwards of forty (40) years before 1989 when possession of the said property was in the hands of JANET JOHNSON and the villagers of Sussex Village, the same had always been privately owned. It cannot be disputed that all throughout the said period, not once can it be said that, it has been shown that it was at some point in time to date become State Land, which the 1st Defendant/Respondent now seeks to reclaim. In this regard, it would be absolutely correct to say, that the conduct of the 1st Defendant/Respondent, amounts to a situation where land which has always being privately owned, is now sought by the 1st Defendant/Respondent to be converted to 'STATE LAND'. It cannot be disputed that the 1st Defendant/Respondent can only do this in one of several ways including but not limited to Transferring of Defence Lands from private possession to State possession, the State reclaiming Forest Reserves, the State reclaiming Ex Railway lands in the colony, the State's acquisition of lands by Conveyance through negotiation, the State reclaiming unoccupied lands, the State reclaiming Kroo settlements and Lumpa reservations, Confiscating lands to the State and by compulsory acquisition by the State.

Clearly the conduct of the 1st Defendant/Respondent cannot be a situation likened to him demanding the transfer of Defence lands or a situation likened to him reclaiming Forest Reserves or reclaiming Ex Railway lands in the colony or reclaiming unoccupied lands or reclaiming Kroo settlements and Lumpa reservation lands, by reason that as stated above, the property at Sussex, which is the subject matter of the application herein has always been occupied and for upwards of forty (40) years prior to 1989 been private property and not Defence lands or Forest Reserves or Ex Railway lands in the colony or unoccupied lands or Kroo Settlements and Lumpa reservation lands.

The conduct of the 1st Defendant/Respondent cannot further be a situation likened to him seeking to acquire the said property by Conveyance from the Plaintiff/Applicant to the State through negotiation, simply by reason that there is absolutely no evidence of any negotiations of the sale of the said property by the said Plaintiff/Applicant to the State. Consequently, the 1st Defendant/Respondent's conduct can only be likened to a situation where he seeks to confiscate lands to the State or seeks to compulsorily acquire lands to the State. The relevant consideration in this regard is whether either of what the 1st Defendant/Respondent sought aforesaid was done within the ambit of the relevant and applicable law.

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This Court upholds the submission of P. LAMBERT ESQ. of Counsel for the Plaintiff/Applicant, as contained in his statement of case dated 9th November 2020 at page 4, paragraph 12, that what the 1st Defendant/Respondent sought to do, was to expropriate the property aforesaid, of the Plaintiff/Applicant without the enabling legislation authorising him to do so. This Court refers to the period 1992 to 1996 when the State of Sierra Leone was governed by the NATIONAL PROVISIONAL RULING COUNCIL (NPRC), a military Regime, governing by virtue of the NPRC PROCLAMATION 1992, which suspended in parts, the **CONSTITUTION OF SIERRA LEONE 1991**, enabling it therefore and authorised to enact laws which of necessity took away rights guaranteed by the said **CONSTITUTION**. The NPRC at time and in order to expropriate or confiscate properties belonging to certain persons enacted the **NPRC DECREE NO. 2 OF 1994** and the **NPRC (EXPROPRIATION OF SPECIFIED COMPANIES) 1994**, to enable them to expropriate or confiscate properties belonging to certain persons. Section 3 and Section 2 of the above decrees respectively enabled the NPRC to terminate the leasehold agreements entered into between the GOVERNMENT OF SIERRA LEONE and ANTOINE A.D YAZBECK in respect of the Hotels set out in the 2nd Schedule of the Decree aforesaid and enabled the NPRC to expropriate the shares of shareholders in Five (5) companies listed in the second schedule to the said Decree. On the return to democratic governance in Sierra Leone on the 2nd April 1996, the Decrees aforesaid, were expressly repealed by Section 1 and its First schedule of the **NPRC (REPEAL AND MODIFICATION) ACT 1996**. As such the expropriation and confiscation aforesaid is no longer law in Sierra Leone. Consequently, if it is the case that, by the conduct of the 1st Defendant/Respondent herein amounted to him expropriating or confiscating the property of the Plaintiff/Applicant, then there is no law in Sierra Leone enabling and or authorising him to do so.

It has been conclusively determined above that, the 1st Defendant/Respondent entered the Plaintiff/Applicant's property aforesaid with a group of armed men, chasing the workers and security guards employed by the said Plaintiff/Applicant out of the said property and putting up a sign board with the inscription '**THIS IS STATE LAND**' taking away the keys to the main gate of the said property. This Court seeks to determine whether or not the acts of the 1st Defendant/Respondent aforesaid, are in accordance with the process of compulsory acquisition of property by the GOVERNMENT OF SIERRA LEONE as provided by Section 21(1) of the **CONSTITUTION OF SIERRA LEONE 1991** the same which provides as follows:

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'No property of any description shall be compulsorily taken possession of and no interest in or right over property of any description shall be compulsorily acquired, except where the taking of possession or acquisition is necessary in the interests of defence, public safety, public order, public morality, public health, town and country planning, the development or utilisation of any property in such a manner as to promote the public benefit or the public welfare of citizens of Sierra Leone and the necessity therefore is such as to afford reasonable justification for the causing of any hardship that may result to any person having any interest in or right over the property and provisions is made by law applicable to that taking of possession or acquisition for the prompt payment of adequate compensation and securing to any person having an interest in or right over the property, a right of access to a Court or other impartial and independent authority for the determination of his interest or right, the legality of the taking of possession or acquisition of the property, interest or right and the amount of any compensation to which he is entitled and for the purpose of obtaining prompt payment of that compensation'.

Clearly, the evidence in its entirety does not show that the conduct of the 1st Defendant/Respondent as outlined above in detail and which said conduct, seems to be an attempt made by the 1st Defendant/Respondent that would amount to the compulsory taking over of possession and the interest in the property at Sussex, the subject matter of the application herein, compulsorily acquired, the compulsory taking over of possession and the compulsory acquisition aforesaid, of the interest in the property aforesaid, was necessary in the interest of Defence, public safety, public order, public morality, public health, town and country planning, the development or utilisation of any property in such a manner as to promote the public benefit or public welfare of citizens of Sierra Leone. It is the case further that, the evidence adduced in its entirety does not show that by the conduct of the 1st Defendant/Respondent aforesaid, the need for such conduct by the 1st Defendant/Respondent is such as to afford reasonable justification for the causing of any hardship that resulted to the Plaintiff/Applicant herein.

It is also the case that, the evidence adduced in its entirety does not show that provision is made by law applicable to the taking of possession and acquisition aforesaid, for the prompt payment of adequate compensation and securing to the Plaintiff/Applicant a right of access to the Court for the determination of his

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interest or right, the legality of the taking of possession or acquisition of the interest or right in the property aforesaid and the amount of any compensation to which the Plaintiff/Applicant is entitled to and for the purpose of obtaining prompt payment of that compensation. The following, **IN RE PUBLIC ORDINANCE** and **IN RE FOURAH BAY ROAD BURNT OUTREACH** (1950-56) ALR SL 390 HC and **IN THE MATTER OF THE RAILWAY ORDINANCE (CAP 198)** and **IN THE MATTER OF CERTAIN LANDS SITUATE AT ROKEL** (1957-60) ALR SL 30 are cases in our jurisprudence dealing with the right of access to the Court for determination of the amount of any compensation and prompt payment of it when private land is compulsorily taken possession of and interests in it compulsorily acquired. The case between **JOHN AKAR & ANOTHER** and **ATTORNEY GENERAL** (1950-56) ALR SL 211 HC, was an application by motion for the determination by the Court of the value of land acquired by the Colonial Government through its competent officer, the Director of Surveys and Lands under the **PUBLIC LANDS ORDINANCE CHAPTER 198** and the compensation to be paid to the claimants thereof. Having found as a fact that, the acreage of the land in question being Twenty Three Point Five Nine (23.59) acres, the Director of Surveys and Lands offering the sum of Two Hundred and Forty Two Pounds, Eighteen Shillings and Six Pence (£242.18s.6p) and the claimants have submitted a claim totalling Thirty Six Thousand, Nine Hundred and Eighty Six Pounds, Four Shillings and Eight Pence (£36,986.14s.8d), **LUKE Ag J**, in making a determination thought it necessary to go very carefully into the principles which have been established in ascertaining and fixing the claims for properties acquired compulsorily as required by the **PUBLIC LANDS ORDINANCE** and in this light considered a number of authorities on this question of compensation on compulsory purchase. **LUKE Ag. J** determined the total figure of compensation to be One Thousand, Three Hundred and Thirty Eight Pounds, Three Shillings and Six Pence (£1,338.3s.6d).

It should be pointed out, that the reference made to the decided cases above does not in any way mean that, the situation at hand involving the Plaintiff/Applicant herein and the conduct aforesaid, of the 1st Defendant/Respondent calls for the prompt payment of compensation to the Plaintiff/Applicant. In the cases referred to above, there is no doubt that the taking of possession or acquisition of the interest in the pieces or parcels of land involved was necessary by reason of one or more of the factors as outlined in Section 21(1) of the **CONSTITUTION** aforesaid. All what the cases referred to above show is the fact that the law makes provision applicable to the taking of possession or acquisition for the prompt payment of adequate compensation.

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and securing a right of access to a Court for the determination of a claimant's interest or right, the legality of the taking of possession or acquisition of the piece or parcel of land involved and the amount of compensation which the claimants are entitled to. The determination of these factors is clearly unnecessary for the purpose of the application herein as the compulsory taking of possession or acquisition of the interest in the property at Sussex, the subject matter of the application herein, be it purported or not, failed the test of necessity in accordance with one or more of the factors outlined in Section 21(1) of the **CONSTITUTION** aforesaid.

This Court holds the view that, the entering upon the property aforesaid, by the 1st Defendant/Respondent with a group of armed men, chasing the workers and security guards employed by the said Plaintiff/Applicant and pulling up a sign board with the inscription 'THIS IS STATE LAND' and the purported taking possession of and acquisition of the interest of the Plaintiff/Applicant in the said property was not in accordance with and was a clear breach of the process of compulsorily acquisition of property by the GOVERNMENT OF SIERRA LEONE as provided under Section 21 of the **CONSTITUTION OF SIERRA LEONE 1991**. This being the case, the conduct of the 1st Defendant/Respondent was not in compliance with and was a clear breach of the **PUBLIC LANDS ACT, CHAPTER 116 of the LAWS OF SIERRA LEONE**, which said legislation makes provision for the acquisition, by the GOVERNMENT OF SIERRA LEONE of lands for public purposes after adequate compensation has been paid for such lands. Clearly, it has not been shown that the acquisition aforesaid, of the property aforesaid, be it purported or not, was done for public purposes and done after adequate compensation had been paid to the Plaintiff/Applicant for the said property.

It cannot be disputed that the conduct aforesaid, of the 1st Defendant/Respondent amounts to the depriving of the Plaintiff/Applicant's use and enjoyment of the property at Sussex, the subject matter of the application herein. This Court holds the view that the said conduct of the 1st Defendant/Respondent amounts to a clear breach of Section 22 of the **CONSTITUTION OF SIERRA LEONE 1991** which provides in part as follows:

'Except with his own consent, no person shall be subjected to the entry by others on his premises, such provision which shall not be sanctioned by any law save that such law shall not be inconsistent with or in contravention of the above provision to the extent that the law in question makes provision that is reasonably required for certain purposes outlined

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in Section 22 (2) of the said CONSTITUTION except that the thing done under the authority thereof is shown not to be reasonably justifiable in a democratic society'.

It is clear that the 1st Defendant/Respondent entered the property at Sussex, the subject matter of the application herein, forcefully and without the consent of the Plaintiff/Applicant. There is not an iota of evidence that the forcible entry into the property aforesaid by the 1st Defendant/Respondent was done in the interest of defence, public safety, public order, public morality, public health, town and country planning or the development or utilisation of the said property in such a manner so as to promote the public health or to enable anybody corporate established directly by any law or any department of the GOVERNMENT OF SIERRA LEONE or any land authority to enter on the property of the Plaintiff/Applicant aforesaid, in order to carry out work in connection with the said property or installation which is lawfully on the said property and which belongs to that body corporate or to the GOVERNMENT OF SIERRA LEONE or to that authority as the case may be or for the purpose of protecting the rights and freedom of other persons or for the purpose of executing a judgement or order of a Court or for the purpose of affording such special care and assistance as are necessary for the health, safety, development and wellbeing of women, children and young persons, the aged and the handicapped. Since it was not shown that the forcible entry by the 1st Defendant/Respondent into the property aforesaid, was done in accordance with some law reasonably required for the purposes aforesaid, it would not be necessary to show that such law is reasonably justifiable in a democratic society.

In answer to the questions asked of this Court, it has been determined above that, the property situate, lying and being at Peninsula Road, Sussex in the Western Area of Sierra Leone, more particularly described and delineated on survey plan numbered LS 1631/90, the subject matter of the application herein is not State Land. It has been determined further that the conduct of the 1st Defendant/Respondent is not in accordance with the process of compulsory acquisition of property by the GOVERNMENT OF SIERRA LEONE and the acquisition aforesaid, be it purported or not and the taking of possession of all that property aforesaid, is not in compliance with Section 21 of the **CONSTITUTION OF SIERRA LEONE 1991** and or in compliance with the **PUBLIC LANDS ACT CHAPTER 116 OF THE LAWS OF SIERRA LEONE 1960** as amended. It has also been determined above that, the conduct of the 1st Defendant/Respondent amounts to depriving the Plaintiff/Applicant of the

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use and enjoyment of his property aforesaid, the said conduct of the 1st Defendant/Respondent which also amounts to a clear breach of Section 22 of the **CONSTITUTION OF SIERRA LEONE 1991**.

The Plaintiff/Applicant has prayed that this Court makes certain Declarations and grant certain Orders in the event that the answers to the first three questions asked are in the negative and the answer to the last question asked is in the affirmative. Indeed, the answers to the first three questions asked are in the negative and the answer to the last question asked is in the affirmative, which said answers should pave the way for the making of the Declarations and the grant of the Orders sought. It cannot be disputed that, the making of the Declarations and the grant of the Orders sought by the Plaintiff/Applicant as prayed for would be against all Three (3) Defendants/Respondents. It could be seen however, that from the answers given to the questions asked for, as posed by the Plaintiff/Applicant, both the 2nd and the 3rd Defendants/Respondents do not seem to have been implicated in so far as the conduct of the 1st Defendant/Respondent is concerned. By reason of the fact that, this Court would not be inclined to make any Declaration and grant Orders against both the 2nd and the 3rd Defendants/Respondents, it would have to justify this.

The 2nd Defendant/Respondent is the Director of Surveys and Lands in the Ministry of Lands. His office was established by the **SURVEYS ACT CHAPTER 128 of the LAWS OF SIERRA LEONE 1960** as amended by **ACT NO. 14 of 1960**, which said amendment conferred on him, the exclusive right to sign and authorise survey plans. The 2nd Defendant/Respondent's office is a public office, subject to the code of conduct issued by the **PUBLIC SERVICE COMMISSION** governing the manner in which all public officers carry out their duties. He is not authorised to depart from the parameters laid down in that code. As has been stated above, there is no evidence whatsoever showing that the 2nd Defendant/Respondent entered the Plaintiff/Applicant's property aforesaid, together with the 1st Defendant/Respondent. This being the case, it cannot be said that, he deprived the Plaintiff/Applicant of the use and enjoyment of his property, caused a breach of the peace in terms of the **PUBLIC ORDER ACT 1965** as amended and the state of Emergency which now exists in Sierra Leone, violently contravened his oath of office taken by him and it cannot be said that his actions, if any, is unconstitutional and in contravention of Sections 21 and 22 of the **CONSTITUTION OF SIERRA LEONE 1991** and its related processes. Undisputedly, it was his predecessor-in-office who signed the survey plan attached to the Plaintiff/Applicant's Deed of Title to his property aforesaid, as required of his office according to law. However, there is absolutely no evidence

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that he has departed from the parameters laid down in his code of conduct issued by the PUBLIC SERVICE COMMISSION and compromised the actions of his predecessor-in-office, regarding the survey plan attached to the Plaintiff/Applicant's Deed of Title. There is no evidence shown that the 1st Defendant/Respondent ordered him to breach that code of Conduct which said Order(s) the 2nd Defendant/Respondent complied with.

In so far as the complicity of the 3rd Defendant/Respondent, in the conduct of the 1st Defendant/Respondent is concerned, an analysis of Exhibits 'MAT 10', 'MAT 13' and 'MAT 18' annexed to the affidavit of MUSTAPHA ABU TARRAF sworn to on the 30th October 2020, will determine the issue aforesaid. The 3rd Defendant/Respondent had made it absolutely and abundantly clear to the 1st Defendant/Respondent that the property, which is the subject matter of the application herein was not State Land neither was it the property of the Ministry of Lands, the said property which was privately owned by the Plaintiff/Applicant. The 3rd Defendant/Respondent had made it absolutely and abundantly clear to the 1st Defendant/Respondent that, entering the property aforesaid, with REV. DAVID CHAMBERS and several thugs apparently to help REV. DAVID CHAMBERS claim ownership of the property aforesaid, was unconstitutional and had advised, that it was not his duty but the Courts to declare who the owner of the property aforesaid is. The 3rd Defendant/Respondent had made it absolutely and abundantly clear to the 1st Defendant/Respondent that, his conduct aforesaid was done in the guise of acting for and on behalf of the GOVERNMENT OF SIERRA LEONE. The 3rd Defendant/Respondent had unequivocally advised the 1st Defendant/Respondent to forthwith refrain from his conduct and show respect to the laws of the land.

This Court holds the view that the above analysis could be safely interpreted to mean the 3rd Defendant/Respondent saying to the 1st Defendant/Respondent that, any further conduct in breach of the advise given to him would be considered as him conducting himself personally and not conducting himself for and on behalf of the GOVERNMENT OF SIERRA LEONE. In this regard, it cannot be said that the 3rd Defendant/Respondent together with the 1st Defendant/Respondent, forcibly and forcefully and without lawful excuse or authority laid hold of, and unlawfully seized and laid claim to all that piece of parcel of land situate, lying and being at Peninsula Road, Sussex in the Western Area of Sierra Leone, the subject matter of the application herein; that it cannot be said that his actions, if any, is unconstitutional and in contravention of Sections 21 and 22 of the **CONSTITUTION OF SIERRA LEONE 1991** and its

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related processes and it cannot be said that the 3rd Defendant/Respondent should be held responsible for the conduct of the 1st Defendant/Respondent.

Even though it can be declared that, the acts of violence, the use of force perpetrated and utilised by the 1st Defendant/Respondent with the aid and assistance of armed personnel at the Plaintiff/Applicant's property aforesaid, in the full view of onlookers, amounts to a breach of the peace in terms of the **PUBLIC ORDER ACT 1965** as amended and that the same amounts to contravention of the oath taken by the said 1st Defendant/Respondent on the occasion of his being sworn in as a Minister with Cabinet rank by His Excellency, the President of Sierra Leone, which oath is contained in the Third Schedule to the **CONSTITUTION** aforesaid, specifically swearing that '.... **he will support, uphold and maintain the CONSTITUTION OF SIERRA LEONE as by law established, so help me God**', it cannot be declared that the acts of the 1st Defendant/Respondent amounts to a breach of the State of Emergency which now exists in Sierra Leone, primarily because there is absolutely no evidence adduced herein, showing the variety of conducts would amounts to a breach of the State of Emergency which now exists in Sierra Leone and which would enable this Court to determine whether the conduct of the 1st Defendant/Respondent amounts to a breach of the State of Emergency aforesaid.

The Plaintiff/Applicant has claimed for a Declaration that the 1st Defendant/Respondent, grossly contravened the provisions of Section 62 of the **CONSTITUTION OF SIERRA LEONE 1991**, the same which provides thus:

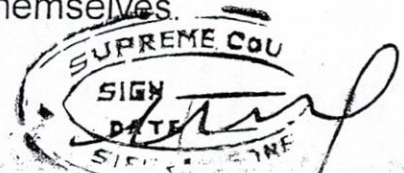
'Where any Minister has been charged with responsibility for any department of GOVERNMENT, he shall exercise general direction and control over that department and subject to such direction and control, the department shall be under the supervision of a Permanent Secretary, whose office shall be a public office.'

It cannot be disputed that, the provision above stipulates that, the 1st Defendant/Respondent shall exercise general direction and control over the Ministry of Lands, Housing and Country Planning and that the day to day supervision of the Ministry by the Permanent Secretary is subject to the general direction and control over the Ministry which the 1st Defendant/Respondent shall exercise. In this regard, if the 1st Defendant/Respondent himself, together with others authorised by him, chooses to embark on an enterprise, by proceeding with armed personnel to a piece or parcel of land owned by a private individual,

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namely the Plaintiff/Applicant herein, to forcibly seize and take control of the said piece or parcel of land without lawful authority thereby, it cannot be said that the same is outside the remit of his office as he is the one who shall exercise general direction and control over the Ministry of Lands, Housing and Country Planning. Consequently it cannot be said that he unlawfully wrestled away the powers conferred on the Permanent Secretary, in the Ministry of Lands to supervise the daily and physical activities of the said Ministry. Moreover it cannot be said that the activity aforesaid, embarked on by the 1st Defendant/Respondent is part of the daily and physical activities of the said Ministry.

Even though it can be declared that, the unlawful actions and declarations of the 1st Defendant/Respondent in relation to the Plaintiff/Applicant's ownership of the property at Sussex, subject matter of the application herein, are against public policy and that the 1st Defendant/Respondent's conduct, words and declarations during his violent attacks on the property of the Plaintiff/Applicant aforesaid, are not authorised or sanctioned by any law in force in Sierra Leone, this Court cannot declare that such actions will encourage the ordinary voting public to believe that, it is permissible conduct for an individual without the support of the law or an order of the Court, to violently take possession of another person's land, primarily because the making of such a declaration would be tantamount to saying that Sierra Leone is a lawless society without any respect for the Rule of Law, in that, for it to act in the manner aforesaid, all what the ordinary voting public would wait for is encouragement from a state actor who takes the law into his own hands, for them to also do likewise. It is for this same reason why this Court cannot declare that, the 1st Defendant/Respondent's conduct, actions, words and declarations during his violent attacks on the said property of the Plaintiff/Applicant, if not stopped, may result in eternal conflicts between law abiding and law-breaking citizens of this peaceful country. Obviously, what can be said in this regard is that, law abiding citizens are encouraged to institute actions in Court against law-breaking citizens in respect of incidents similar to the one herein since it is the duty of the Courts to resolve conflicts between law abiding and law-breaking citizens of this peaceful country, implementation of the same which should and would discourage the ordinary voting public to believe that, it is permissible conduct for an individual without the support of the law or an order of the Court, to violently take possession of another person's land and law abiding and law-breaking citizens resolving conflicts between them by themselves.



The Plaintiff/Applicant has prayed for an order that, Damages be paid by the 1st and the 2nd Defendants/Respondents for trespass on the property at Sussex, the subject matter of the application herein and the contravention of the Plaintiff/Applicants' fundamental right provided for by Section 21 of the **CONSTITUTION OF SIERRA LEONE 1991**. It has been conclusively determined above that, the 2nd Defendant/Respondent cannot be held liable for the conduct of 1st Defendant/Respondent by reason that there is no evidence adduced herein, of the 2nd Defendant/Respondent's participation in implementing the 1st Defendant/Respondent's conduct. The pertinent question that's follows is '**Does this pave the way for this Court to order the 1st Defendant/Respondent to pay damages, himself being the only person who perpetrated the acts aforesaid in breach of Section 21 of the CONSTITUTION aforesaid**'? It should be pointed out that in so far as the invoking of Section 21 aforesaid, is concerned, it is only the GOVERNMENT OF SIERRA LEONE that can compulsorily take possession of property and interest or right over such property acquired from a citizen and it is only them who can be named Defendants in an action for breach of Section 21 aforesaid.

Justification for the proposition aforesaid can be found from the very contents of Section 21 of the **CONSTITUTION** aforesaid. Certainly, in a bid to justify the taking of possession and the acquiring of interest or right over property, it would not be a private citizen acting alone on his own behalf that would have to declare, that it is in the interest of defence, public safety, public order, public morality, public health, town and country planning, the development or utilization of the property in such manner as to promote the public benefit or the public welfare of citizens of Sierra Leone. It is the case further that, it cannot be a private citizen that would have to provide reasonable justification balancing the need for the taking of possession and the acquiring of interests or rights over the property and any hardship that may result to any person having an interest or right over the said property. It is the case also that it cannot be a private citizen that would have to make provision in law applicable to the taking of possession or acquisition for the prompt payment of adequate compensation and securing to any person having an interest in or right over the property, a right of access to a Court or other independent authority for the determination of that persons' interest or right, the legality of the taking of possession or acquisition of the property, interest or right and the amount of any compensation to which that person is entitled to and for the purpose of obtaining prompt compensation. Clearly and from the above, it is state actors from all three arms of the GOVERNMENT OF SIERRA LEONE, the Executive, the Legislature and the Judiciary that would have to be involved in justifying that the conditions

above, necessary for the successful compulsorily taking over possession of property and interest or right over such property are fully complied with.

It cannot be disputed that all Three(3) Defendants/Respondents are the state actors named in defence of the Plaintiff/Applicants' claim that Section 21 of the **CONSTITUTION OF SIERRA LEONE 1991** was breached. It is obvious, that the Plaintiff/Applicant claim could be equated to him saying that all Three (3) Defendants/Respondent were acting in concert for and on behalf of the GOVERNMENT OF SIERRA LEONE. However, this Court has determined above that, in so far as the breach of Section 21 aforesaid, is concerned, the 2nd and the 3rd Defendants/Respondent were not in concert with the 1st Defendant/Respondent and cannot in the circumstance be said to be acting for and on behalf of the GOVERNMENT OF SIERRA LEONE in this regard. It has been established above that there is absolutely no evidence brought forward linking the 2nd Defendant/Respondent with the 1st Defendant/Respondent or the 2nd Defendant/Respondent complying with instructions from the 1st Defendant/Respondent, such instructions being in breach of Section 21 of the **CONSTITUTION** aforesaid. It has been established further that the 3rd Defendant/Respondent as the Attorney-General and Minister of Justice of Sierra Leone and acting for and on behalf of the GOVERNMENT OF SIERRA LEONE, severally did all he could, to get the 1st Defendant/Respondent to restrain himself from proceeding with his actions, in breach of section 21 aforesaid, to no avail in the circumstance. Both the 2nd and the 3rd Defendants/Respondent cannot be held liable to pay Damages to the Plaintiff/Applicant for trespass and contravention of the Plaintiffs'/Applicants fundamental right provided for by Section 21 of the **CONSTITUTION OF SIERRA LEONE 1991**.

From the above analysis, it cannot be disputed that it was the 1st Defendant/Respondent who solely acted in violation of section 21 of the **CONSTITUTION OF SIERRA LEONE 1991**. This Court holds the view that, notwithstanding the lack of any authority and the fact, as established above, that he had no co-operation from the 2nd and the 3rd Defendants/Respondents, themselves being state actors, as the Director of Surveys and Lands and the Attorney General and Minister of Justice respectively, the 1st Defendant/Respondent, from his own point of view at the time he acted, was so acting on behalf of the GOVERNMENT OF SIERRA LEONE, himself being a state actor as the Minister of Land, Housing and Country Planning. In the circumstance, the 1st Defendant/Respondent, who seem to be the one liable to pay damages to the Plaintiff/Applicant for trespass and contravention of the

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Plaintiff/Applicants' fundamental rights provided for by Section 21 of the **CONSTITUTION OF SIERRA LEONE 1991** ought to be ordered to pay damages to the Plaintiff/Applicant.

Obviously, an Order for the 1st Defendant/Respondent to pay Damages to the Plaintiff/Applicant would not be an Order directed personally to the 1st Defendant/Respondent, by reason that as stated above, at the time he acted he did so for and on behalf of the GOVERNMENT OF SIERRA LEONE as the Minister of Lands, Housing and Country Planning and there is no way he could have acted personally. It cannot be disputed that, had he succeeded and compulsorily taken possession of and acquired the interest or right over the property of Sussex, subject matter of the application herein, in compliance with Section 21 of the **CONSTITUTION OF SIERRA LEONE 1991**, it is the GOVERNMENT OF SIERRA LEONE that would have benefited. It stands to reason that, if there is a detriment to be suffered as a result of the conduct of the 1st Defendant/Respondent, it is the GOVERNMENT OF SIERRA LEONE that should bear it. Consequently, an Order for the 1st Defendant/Respondent to pay Damages to the Plaintiff/Applicant would in effect be an indirect one for the GOVERNMENT OF SIERRA LEONE to pay Damages to the Plaintiff/Applicant. It should be noted however that from the foregoing, this Court has no inclination to make an indirect Order for the GOVERNMENT OF SIERRA LEONE to pay Damages to the Plaintiff/Applicant for the contravention of Section 21 of the **CONSTITUTION OF SIERRA LEONE 1991** and it would refrain from making such an Order for very good reasons.

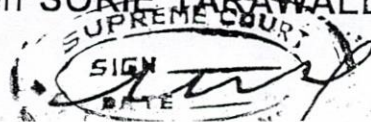
In the first place and as stated above, it would seem very unfair to order the GOVERNMENT OF SIERRA LEONE to pay Damages when the evidence does not show that the 2nd Defendant/Respondent, who is one of the persons who the Plaintiff/Applicant requests an order to be made against, doing anything absolutely to help or assist the 1st Defendant/Respondent. Further, it would seem very unfair to order the GOVERNMENT OF SIERRA LEONE to pay Damages, when it has been uncontrovertibly shown that, the 3rd Defendant/Respondent severally advised that, the 1st Defendant/Respondent refrains from conducting himself in the way he did, so much so that, this Court interpreted such persistent advise to mean the 3rd Defendant/Respondent saying to the 1st Defendant/Respondent that, he would be acting on his own if he proceeds with his actions as outlined above. It would seem very unfair also, on the GOVERNMENT OF SIERRA LEONE to order it to pay damages, when the evidence show that what the 1st Defendant/Respondent seemed to be doing by his actions was assist DAVID CHAMBERS claim the property at Sussex,

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subject matter of the application herein as his own by extra judicial means, the 1st Defendant/Respondent unlawfully using his position as the Minister of Lands, Housing and Country Planning to do so, the same which the 3rd Defendant/Respondent had clearly pointed out to the 1st Defendant/Respondent. This Court holds the view that, notwithstanding the fact that as stated above it would seem very unfair to order the GOVERNMENT OF SIERRA LEONE to pay Damages for the reasons stated above, there is still nothing shown stopping this Court from making an order indirectly ordering the GOVERNMENT OF SIERRA LEONE to pay Damages by reason that the reasons given above why it should not order Damages against the GOVERNMENT OF SIERRA LEONE are purely sentimental and that this Court should not act on sentiments. It would seem then that for the GOVERNMENT OF SIERRA LEONE to escape liability for Damages, it would by itself and or through its state actors like the 3rd Defendant/Respondent to do more than giving advices. Steps should have been taken to ensure that the 1st Defendant/Respondent is stopped forthwith from proceeding with his acts.

This Court takes judicial notice of the notorious fact that the 1st Defendant/Respondent is no longer the Minister of Lands Housing and Country Planning since he was relieved of his office as such sometime during the pendency of the application herein. Even though the relieving of his duties seem to be rather belated as it did not prevent the 1st Defendant/Respondent from proceeding with his acts, his relieving of his duties came before the consideration of the grant of the orders sought herein. Clearly even though the said 1st Defendant/Respondent conducted himself whilst he was Minister of Lands, Housing and Country Planning no order can be made against him as the Minister of Lands, Housing and Country Planning by virtue that he is no longer in such office. This Court holds the view that an order though can be made against him personally as DR. DENNIS M. SANDY, since by so doing, the same would not be tantamount to indirectly ordering the GOVERNMENT OF SIERRA LEONE to pay Damages. In this regard, even though the 1st Defendant/Respondent cannot be ordered to pay Damages to the Plaintiff/Applicant for his conduct in breach of Section 21 of the CONSTITUTION OF SIERRA LEONE, he would be liable to pay the Plaintiff/Applicant Damages for Trespass to the property at Sussex, the subject matter of the application herein.

As regards the Plaintiff/Applicant's claim for Damages for Trespass, the law as stated by **RENNER-THOMAS CJ** in the case between **SORIE TARAWALLI** and **SORIE KAMARA** cited above is that:



'all the Plaintiff has to prove is a better right to possession than the Defendant and that one way to do this is to show that he has a better title to the piece or parcel of land in question'.

Clearly as this Court finds from the above, it holds the view that the Plaintiff/Applicant has proved that he has a better title to the property at Sussex, which is the subject matter of the application herein, than the 1st Defendant/Respondent who has not shown any title to the same. From the uncontroverted facts as deposed to in the affidavit of MUSTAPHA ABU-TARRAF sworn to on the 30th October 2020, this Court holds the view that the 1st Defendant/Respondent has trespassed on the property at Sussex, which is the subject matter of the application herein, and that the Plaintiff/Applicant is therefore entitled to Damages for trespass. Uncontrovertibly, it is deposed to in the said affidavit that on the 8th July 2020, the 1st Defendant/Respondent entered the property of the Plaintiff/Applicant aforesaid with armed men dressed with purported police and military fatigue, forcefully removing the guards deployed to secure the property aforesaid and carting away building materials worth millions of Sierra Leone Leones. This Court finds that, from Exhibits 'MAT 14', 'MAT 15¹⁻³⁴', 'MAT 19' and 'MAT 20' the same which are photographs depicting the trespass and malicious damage on the said property aforesaid, a storage pin being a video and photos showing the demolition and destruction of the structures on the said property respectively, the same annexed to the affidavit of MUSTAPHA ABU-TARRAF aforesaid, the damage done on the property at Sussex, the subject matter of the application herein. seems to be minimal. What is seen are a few pieces of Zinc, Wooden Boards and Sticks, metal railings all of which seem to be remnants of some destruction to some temporal structure(s), together with a few concrete blocks scattered around a concrete fence structure, the top parts of which show minimal destruction, the said destruction together with the building materials carted away which this Court assesses at Ten Million Sierra Leone Leones (SLL 10,000,000.00).

By reason that the Interlocutory Injunction granted aforesaid, was properly granted, the undertaking in damages filed by the Plaintiff/Applicant on the 16th February 2021 ought to be discharged. Notwithstanding the fact that it has been held above that, the 2nd and the 3rd Defendants/Respondents cannot be held responsible for the conduct of the 1st Defendant/Respondent the Plaintiff/Applicant is entitled to the Perpetual Injunction sought herein, primarily to ensure that the successors-in-office of all the Defendants/Respondents are kept in check to prevent a re-occurrence of the conduct of the 1st Defendant/Respondent. The Plaintiff/Applicant is also entitled to the Costs of the application and of the proceedings herein.

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By reason of the above, the Plaintiff/Applicant succeeds in his application. This Court hereby make the following Declarations and grants the following Orders:

1. It is hereby **DECLARED** that MOHAMED KAMEL WANZA is the fee simple owner of all that property, situate, lying and being at Peninsula Road, Sussex Village, in the Western Area of Sierra Leone, measuring about 9.3019 acres in area more particularly described and delineated on survey plan dated 27th July 1990 and numbered LS 1737/90 and based on Deed of Conveyance made between GHAZI R. FAIAD and MOHAMED KAMEL WANZA, the Plaintiff/Applicant herein, dated 15th November 1990 and registered as No. 1602/90 at page 49 in Volume 444 of the Books of Conveyances kept in the office of the Registrar General at Walpole Street Freetown, the said property which is Private Land.

2. It is hereby **DECLARED** that DR. DENNIS M. SANDY the 1st Defendant/Respondent has violated the rights of the Plaintiff/Applicant herein, contained in Section 21 of the **CONSTITUTION OF SIERRA LEONE, 1991** in that, DR DENNIS M. SANDY the erstwhile MINISTER OF LANDS, HOUSING AND COUNTRY PLANNING, the 1st Defendant/Respondent herein, forcibly and forcefully and without lawful excuse or authority laid hold of and unlawfully seized and laid claim to all that property aforesaid, situate, lying and being at Peninsula Road, Sussex in the Western Area of Sierra Leone, the same whereof is owned legally and beneficially by the said Plaintiff/Applicant, the person entitled to possession of the same and who has been the person possessed of and otherwise well and sufficiently entitled to possession of the same for upwards of Thirty (30) years last past at least.

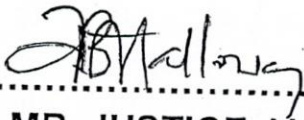
3. It is hereby **DECLARED** that the said acts and actions and the several written and oral declarations of the 1st Defendant/Respondent are tantamount to a violent wrongful and unlawful deprivation of the property rights of the said Plaintiff/Applicant contrary to the provisions of Sections 21 and 22 of the **CONSTITUTION OF SIERRA LEONE 1991** and that the said acts and Declarations of the 1st Defendant/Respondent are not

sanctioned or authorised by the said **CONSTITUTION** nor by the **PUBLIC LANDS ACT CHAPTER 116** of the **LAWS OF SIERRA LEONE 1960** as amended, nor by any other law or nor by custom or nor by convention.

4. It is hereby **DECLARED** that the acts of violence, the use of force perpetrated and utilised by the 1st Defendant/Respondent with the aid and assistance of armed personnel at the Plaintiff/Applicant's property aforesaid, in the full view of onlookers, amounts to a breach of the peace in terms of the **PUBLIC ORDER ACT 1965** as amended and a contravention of the oath taken by the said 1st Defendant/Respondent on the occasion of him being sworn in as a Minister with Cabinet rank by His Excellency, the President of Sierra Leone, which oath is contained in the Third Schedule to the **CONSTITUTION** aforesaid specifically, the portion where he swore '.... I will support, uphold and maintain the **CONSTITUTION OF SIERRA LEONE** as by law established, so help me God'.
5. It is hereby **DECLARED** that the unlawful actions and declarations of the 1st Defendant/Respondent in relation to the Plaintiff/Applicant's ownership of the property aforesaid are against public policy.
6. A Perpetual Injunction restraining the Defendants/Respondents and their successors in office and their servants or agents from entering upon and claiming the Plaintiff/Applicant's property aforesaid, as State Land or in any manner whatsoever, from interfering with its use and enjoyment by the Plaintiff/Applicant is hereby **GRANTED**.
7. That the Plaintiff/Applicant **RECOVERS** from the 1st Defendant/Respondent, Damages for Trespass to the property at Sussex aforesaid, the same which is assessed by this Court at Ten Million Sierra Leone Leones (SLL 10,000,000.00).

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8. That the Costs of and occasioned by the application herein together with the proceedings herein be **BORNE** by the 1st Defendant/Respondent herein, the same which shall be taxed if not agreed upon.



.....
HON. MR. JUSTICE ALLAN B. HALLOWAY

- JSC

I AGREE.....


HON. MR. JUSTICE EKUNDAYO E. ROBERTS

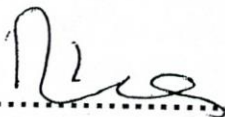
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I AGREE.....

HON. MR JUSTICE ALUSINE S. SESAY

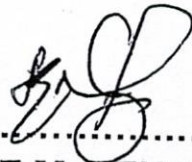
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I AGREE.....

HON. MR. JUSTICE MANGAY F. DEEN-TARAWALLY

- JSC



I AGREE.....

HON. MR. JUSTICE M. SENGU KOROMA

- JSC

SUPREME COURT
SIGNATURE
DATE 25/11/2019

