

IN THE SUPERIOR COURTS OF THE GAMBIA



IN THE SUPREME COURT OF THE GAMBIA

SC Civil Suit No: 001/2019

BETWEEN:

YA KUMBA JAITEH

APPLICANT

AND

**CLERK OF THE NATIONAL ASSEMBLY
SPEAKER OF THE NATIONAL ASSEMBLY
FODAY GASSAMA
THE ATTORNEY GENERAL**

**1ST DEFENDANT
2ND DEFENDANT
3RD DEFENDANT
4TH DEFENDANT**

FRIDAY THE 15TH DAY OF MARCH 2019

**CORAM: HON. MR. JUSTICE H. B. JALLOW, CHIEF JUSTICE
HON. MR. JUSTICE G. B. S. JANNEH, JSC
HON. MR. JUSTICE R. C. SOCK, JSC
HON. MR. JUSTICE C. S. JALLOW QC, JSC
HON. MRS. JUSTICE M. M. SEY, JSC**

COUNSEL:

B. S. Touray, with him A. A. Bensouda, L. L. Darbo, S. K. Jobe and A. Ceesay-Jallow for the Applicant/Plaintiff

Binga D, with him N. Jallow for the 1st, 2nd and 4th Defendants

3rd Defendant absent and unrepresented

RULING DELIVERED THE 15TH DAY OF MARCH, 2019

HON. JUSTICE H. B. JALLOW C.J.: On the 6th of March 2019, the plaintiff/applicant Ya Kumba Jaiteh caused a writ to be issued pursuant to the original jurisdiction of the court against the Clerk and Speaker of the National Assembly, one Foday Gassama and the Attorney General (the respondents).

She challenged the revocation by the President of the Republic of her nomination to the National Assembly as invalid and sought by the writ declarations to that effect as well as various restraining orders against the 1st, 2nd and 3rd defendants/respondents.

By motion of notice filed on 9th March 2019 and supported by an affidavit the Plaintiff/applicant sought various interim orders against 1st, 2nd and 3rd defendants pending the determination of the main suit regarding the validity of the revocation

The plaintiff sought from the court the following:

- i An order restraining the speaker (2nd defendant) of the National Assembly from administering the oath of office onto the 3rd defendant Foday Gassama who had been nominated by the President to replace the plaintiff/applicant Ya Kumba Jaiteh in the National Assembly
- ii An order restraining the Clerk (1st defendant) and the speaker (2nd defendant) of the National Assembly from bestowing any right, privilege or role on Foday Gassama (3rd defendant) as a member of the National Assembly and;
- iii An order restraining Foday Gassama (3rd defendant) from "parading" himself in any way as a member of the National Assembly

The application was opposed by the 1st and 2nd defendants represented by the Attorney General, the 3rd defendant not taking part in the proceedings.

These proceedings, it must be made clear are not concerned with the question of whether the revocation of the nomination of Ya Kumba Jaiteh to the National Assembly is valid or otherwise.

That is a question to be determined in the main trial. These interlocutory proceedings are concerned only with the applications by the plaintiff for Interim restraining orders pending the determination of that issue.

Having considered the submissions of the parties and on the basis of the legal principle favouring the presumption of the regularity of all official acts, the applicable principles of law relating to the grant of interim restraining orders the court has come to the conclusion that the interim orders applied for by the plaintiff/applicant Ya Kumba Jaiteh should not be granted. The application is accordingly dismissed in its entirety.

The Court further considers it necessary to the circumstances of this case, to emphasise that all arrangements for the assumption of office by the 3rd defendant/respondent Foday Gassama as a nominated member of the National Assembly should proceed.

The plaintiff/applicant is hereby ordered, pending the determination of the suit, not to interfere with that process or with the execution by the third respondent of his duties.

The Court further emphasises that this is subject to and without prejudice to the final decision of the court as to whether the nomination of Ya Kumba Jaiteh plaintiff/applicant was validly revoked or otherwise.

Reasons for the dismissal of the application will be incorporated in the final judgment of the court in this case.


There will be no order as to costs.

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HON. Mr. Justice H. B. Jallow, Chief Justice


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Hon. Mr. Justice G. B. S. Janneh, JSC

I Agree:

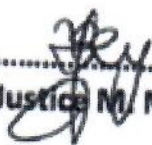
I Agree:


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Hon. Mr. Justice R. C. Sock, JSC

I Agree:


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Hon. Mr. Justice C. S. Jallow QC, JSC

I Agree:


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Hon. Mrs. Justice M. M. Sey, JSC