

WATAMAL (LIBERIA) INC., by and thru its Representative, and **AFRO LIBERIAN INVESTMENT CORPORATION (ALICO)**, by and thru its Representative, Petitioners, v. **HIS HONOUR J. HENRIQUE PEARSON**, Assigned Circuit Judge, People's Civil Law Court for the Sixth Judicial Circuit, Montserrado County, March Term, A. D. 1983, **CONSOLIDATED AFRICA TRADING CORPORATION (CATCO)**, represented by FAIRE SABA, Respondents.

PETITION FOR A WRIT OF PROHIBITION TO THE CIRCUIT COURT FOR THE SIXTH JUDICIAL CIRCUIT, MONTSERRADO COUNTY.

Decided May 11, 1983.

1. A trial judge who has empanelled a trial jury and is proceeding with the trial of a case in which the jury has been empanelled, cannot empanel a second jury and commence a second trial until the first jury trial has been determined or otherwise disposed of.

Prohibition in these proceedings was sought to prevent the trial judge from proceeding with the trial of a second case in which he had empanelled a second jury while the first jury in an earlier trial was still empanelled and the first case had not been disposed of or concluded. The records revealed that the trial of the first case had been suspended due to the illness of some of the jurors, and that while awaiting their recovery, the trial judge had empanelled a second jury and commenced the trial of a second case.

The respondents, having conceded the soundness of the petition, did not interpose objections to the granting of the writ. The Chambers Justice, noting the agreement of the respondents to the granting of the writ, and citing Rule 38 of the Circuit Court Rules in support of the petition, determined that the petition should be granted, and that the peremptory writ of prohibition be issued prohibiting the trial judge from proceeding further with the second jury trial until the first jury trial had been disposed of or otherwise determined.

Joseph Dennis of the P. Amos George Law Firm appeared for petitioners. James G. Bull of the Bull and Bull law Firm, together with Nelson W. Broderick of the Tubman Law firm, appeared for respondents.

SMITH, J., presiding in Chambers.

When this case was called, Counsellor Joseph Dennis of the P. Amos George Law Firm appeared for the petitioners and Counsellor James G. Bull of the Bull and Bull Law Firm, together with Counsellor Nelson W. Broderick of the Tubman Law Firm, appeared for the respondents.

Counsel for petitioner, Counsellor Joseph Dennis, made the following submission: "Counsel for petitioners say that in view of the fact that respondents in these proceedings have

conceded the legal soundness of petitioner's petition, he therefore most respectfully prays this Honourable Court to grant said petition."

Wherefore, counsel for respondents responded as follows: "Counsel for respondents, Counsellor James G. Bull, says that he interposes no objection to the granting of the petitioners' petition, thereby ordering the issuance of the peremptory writ of prohibition for the trial court to resume jurisdiction over the case, and that the subject case be proceeded with as in keeping with the returns of the respondents' counsel. And respectfully submit."

From what we have been able to gather from the arguments of both counsel, there was a case pending before the co-respondent judge of the People's Civil Law Court for the Sixth Judicial Circuit, Montserrado County, in which jurors were already empanelled, but that they had not returned with their verdict because of the illness of some of the jurors who were in the hospital; that there was a lot of time wasted; and that therefore the trial had to be suspended by the trial court.

It was also indicated that during the pendency of the first case on trial with a jury empanelled, the trial judge took the risk, in order to speed up the trial of other cases, in empanelling another jury in another case while the first case was suspended pending the return of the sick jurors. It is for this reason that the petitioners sought the Chambers of this Court to prohibit the trial judge from proceeding further with the last case until the first case had been determined and that thereafter, another case could then be taken up. The contentions of the petitioners are supported by Rule 38 of the Circuit Court's Rule, found on page 35 of the Revised Rule.

Counsel for respondents having conceded the legal soundness of petitioners' petition, and in view of Rule 38 of the Circuit Court Rule, relied upon, it is our opinion that the petition should be, and the same is hereby granted, and the peremptory writ of prohibition ordered issued commanding the co-respondent judge to desist proceeding any further with the second case until the first case has been determined; that is, until a verdict in the first case shall have been returned.

The Clerk of this Court is hereby ordered to send a mandate to the trial court commanding the judge presiding therein to resume jurisdiction over the case and to proceed with the hearing of the first trial case. Costs to abide final determination of this case. And it is hereby so ordered.

Petition granted.