


<u>AFRICAN UNION</u>		<u>UNION AFRICAINE</u>
<u>الاتحاد الأفريقي</u>		<u>UNIÃO AFRICANA</u>
<u>AFRICAN COURT ON HUMAN AND PEOPLES' RIGHTS</u> <u>COUR AFRICAINE DES DROITS DE L'HOMME ET DES PEUPLES</u>		

APPLICATION N0.018/2020

MUHAMMED BASSIROU SECKA AND OTHERS

V.

THE REPUBLIC OF THE GAMBIA

CASE SUMMARY

I. PARTIES AND THEIR REPRESENTATIVES

1. Mr. Muhammed Bassirou Secka, Mr. Ahmad Dam Secka, Mr. Kebba Secka and other residents¹ of the Kerr Mot Hali village (hereinafter “the Applicants”) in The Republic of the Gambia are nationals of the Republic of The Gambia. The Applicants claim to have lived in Kerr Mot Hali village since its founding in 1777. The named Applicants engage in farming and teaching the Islamic faith to their disciples.
2. The Applicants are represented by the Institute for Human Rights and Development in Africa (IHRDA) and Mr. Sheriff Kuma Jobe, Barrister and Solicitor of the Supreme Court of The Gambia.
3. The Respondent State is the Republic of The Gambia, which became a State Party to the African Charter on Human and People’s Rights (hereinafter “the Charter”) on 21 October 1986 and the Protocol to the African Charter on Human and People’s Rights on the Establishment of an African Court on Human and People’s Rights (hereinafter “the Protocol”) on 25 January 2004. On 3 February 2020, The Gambia deposited the Declaration under Article 34(6) of the Protocol by which it accepted the jurisdiction of the Court to consider applications filed by individuals and Non-Governmental Organisations.

II. SUMMARY OF FACTS

4. In January 2009, police officers of the Respondent State had allegedly beaten and humiliated the Applicants as a part of a longstanding persecution against the applicants due to their religious faith. They fled Ker Mot Hali village (the village) to neighbouring Senegal to escape persecution.
5. The Applicants state that they made several attempts to return to their village, but the Respondent State’s police warned them not to go back.

¹ The Application did not include a list of all the residents of the village who are supporting this Application.

6. In the meantime, people unknown to the Applicants occupied their homes and properties in the village.
7. The Applicants were able to return to their home country after Mr. Adama Barrow, the current President of the Respondent State, came into power after the election in December 2016.
8. On 24 March 2017, the Applicants brought a civil suit against the Respondent State and its agents at the High Court of The Gambia (High Court), claiming their ownership to the properties in the village.
9. In its decision of 12 October 2017, the High Court found that the Applicants' eviction was a form of persecution by the government on the basis of religion. The High Court further declared that the Applicants are the lawful owners of the properties occupied by the third parties.

III. ALLEGED VIOLATIONS

10. The Applicants claim that, by forcing the Applicants to leave their lands, houses and farmlands, allowing third parties to take over these properties and refusing to comply with the High Court judgment, the Respondent State violated the Applicants' right to property protected under Article 14 of the Charter.
11. The Applicants allege that, by failing to enforce and by 'disrespecting' the High Court judgment, the Respondent State violated the Applicants' rights under the Charter to have their cause heard under Article 7(1), the right to obtain an effective remedy under Article 1, and its duty to guarantee an independent judiciary under Article 26.

IV. APPLICANTS' PRAYERS

12. The Applicants pray the Court to grant the following:

"a. A DECLARATION that the Republic of The Gambia has violated the rights of the Applicants to property under article 14 of the African Charter on Human and People's Rights.

b. A DECLARATION that the Republic of The Gambia has violated the rights of the Applicants under the combined reading of articles 1 and 7 of the African Charter on Human and People's Rights.

c. A DECLARATION that the Republic of The Gambia has violated the duty of the State to guarantee the independence of the judiciary under article 26 of the African Charter on Human and People's Rights.

d. AN ORDER for the Republic of The Gambia to take immediate measures to restore possession and total control to the Applicants, of their properties at Kerr Mot Hali village.

e. AN ORDER for the Republic of The Gambia pay the Applicants general damages in the sum of One Hundred Thousand United States Dollars (USD 100,000.00).

f. AN ORDER for the Republic of The Gambia to report to this Honourable Court within 180 days of the measures it has taken to comply with the judgment of the Court.

g. ANY FURTHER ORDER OR ORDERS as the Court may deem fit to make in the circumstances."

V. INFORMATION ON EXHAUSTION OF LOCAL REMEDIES

13. The Applicants submit that they have exhausted all available local remedies. They argue that the recovery of their properties is not among the available remedies for contempt proceedings.
14. The Applicants have pursued other avenues to execute the judgment of High Court but in vain.
15. On 30 April 2018, the Applicants sent a letter to the Sheriff to request the execution of the Judgment. They further wrote to Respondent State's President on 24 April 2018 and 21 September 2018 and to the Chief Justice on 31 May 2018 and 3 August 2018, requesting their intervention in this regard.
16. On 15 November 2018, the Office of the Chief Justice requested the Land Commission of the Respondent State to facilitate an amicable settlement on

the land dispute. The Applicants wrote to the Land Commission on 27 November 2018, stating their intent not to appear before it because they already have a valid judgment on the matter from the High Court.

17. On 4 March 2019, the Respondent State's Judiciary issued notices to vacate the Applicants' properties to the current occupants, but the occupants have not complied with the notices.
18. On 12 March 2019, the Sheriff's Division of the High Court requested the Inspector General of Police to provide police escort to enforce the High Court judgment. This request was not granted.
19. The Office of the President, upon receiving the third letter by the Applicant dated 6 May 2019, invited them to a meeting at the Office on 17 May 2019. The Applicants had the meeting with the Permanent Secretary, who promised to get back to the Applicants. The Applicants state that the Office of the President has not assisted the Applicants since then.