


AFRICAN UNION		UNION AFRICAINE
الاتحاد الأفريقي		UNIÃO AFRICANA
UNIÓN AFRICANA		UMOJA WA AFRIKA
AFRICAN COURT ON HUMAN AND PEOPLES' RIGHTS COUR AFRICAINE DES DROITS DE L'HOMME ET DES PEUPLES		

**APPLICATION NO. 001/2020**

**MUHAMMED BASSIROU SECKA & 2 OTHERS .....APPLICANTS**

**V.**

**THE REPUBLIC OF THE GAMBIA .....RESPONDENT**

**CASE SUMMARY**

## **I. THE PARTIES**

1. Mr. Muhammed Bassirou Secka, Mr. Ahmad Dam Secka, Mr. Kebba Secka and other residents of the Kerr Mot Hali Village (hereinafter “the Applicants”) filed an application at the African Court on Human and Peoples’ Rights (hereinafter referred to as the “Court”) against the Republic of The Gambia (hereinafter referred to as “the Respondent State”). The Applicants claim that the circumstances of their eviction from their homes and properties in Kerr Mot Hali Village in the Upper Saloum District in the Central River Region of the Republic of The Gambia violated their rights and the rights of their community under the African Charter on Human and Peoples’ Rights (hereinafter referred to as “the Charter”).

## **II. SUBJECT OF THE APPLICATION**

### **A. Facts of the matter**

2. From the record, the Applicants, who were allegedly the actual occupants of Ker Mot Hali Village in the Gambia, were forced, in 2009, by government agents to vacate their village on account of their religion, cultural and traditional practices, and fled to the neighbouring country, Senegal.
3. The Applicants allege that upon their emigration, their homes and properties were occupied and taken over by people unknown to them. Due to the hostile political environment in the Respondent State and the fact that they were forced to emigrate their village by State’s security agents, the Applicants were allegedly unable to seek any redress before the Respondent State’s judicial mechanisms. However, after the defeat of the former President Yahyah Jammeh by Adama Barrow, they were able to return to their country. They then instituted a civil suit against the Respondent State in 2017, claiming their ownership of the community land.
4. A judgment was delivered on 12 October 2017 by the High Court of the Respondent State in the Applicants favour, with the Court making several orders including the

establishment that the Applicants are the owners and entitled to the possession of their respective properties. However, the Applicants allege that since the delivery of the High Court judgment, the Respondent State has failed to comply with the same and has made no efforts to implement the decision. The Applicants further allege that they are still not able to return to their homes and properties because the unlawful occupants are still in occupation of their property, considering that the Respondent State has refused to respect or enforce the judgment of its High Court and that they are left with no other legal remedies.

### **B. Alleged violations**

5. The Applicants allege that the Respondent State violated their rights, as follows:
  - i. The right to an effective remedy, protected under Article 1 and 7(1) of the Charter;
  - ii. The duty to guarantee the independence of the courts, provided for under Article 26 of the Charter; and
  - iii. The right to property, protected under Article 14 of the Charter.

### **C. Applicant's prayers**

6. The Applicant prays the Court for the following:
  - i. A Declaration that the Respondent State violated the rights of the Applicants to property under Article 14 of the Charter.
  - ii. A Declaration that the Respondent State has violated the rights of the Applicants under the combined reading of Articles 1 and 7 of the Charter.
  - iii. A Declaration that the Respondent State has violated the duty of the State to guarantee the independence of the judiciary under article 26 of the Charter.

- iv. An Order for the Respondent State to take immediate measures to restore possession and total control to the Applicants, of their properties at Kerr Mot Hali village.
- v. An Order for the Respondent State pay the Applicants general damages in the sum of One Hundred Thousand United States Dollars (USD 100,000.00).
- vi. An Order for Respondent State to report to this Honourable Court within 180 days of the measures it has taken to comply with the judgment of the Court.
- vii. Any further Order or Orders as the Court may deem fit to make in the circumstances.