

IN THE HIGH COURT OF NEZAM JUDICIAL DIVISION
HOLDEN AT BAMBENDA
BEFORE HIS LORDSHIP MR. JUSTICE R. T. WANKI - J U D G E
THIS THURSDAY THE 9TH DAY OF JULY, 1998.

SUIT NO. PCB/78M/98:

5.

IN THE MATTER OF HAMIDO HASSAN

AND

IN THE MATTER OF AN APPLICATION FOR A WRIT
OF HABEAS CORPUS AD SUBJICIUM

AND

IN THE MATTER OF HABEAS CORPUS.

10.

PARTIES: HAMIDO HASSAN absent. The Commandant B.M.M. absent.

APPEARANCES; Mr. Ngway Gideon for Hamido Hassan.

"REPUBLIC OF CAMEROON"

"IN THE NAME OF THE PEOPLE OF CAMEROON"

- R U L I N G -

15.

This is an application by way of the prerogative writ of Habeas Corpus, whereby the applicant through his Counsel Mr. Ngwayi Gideon is praying this court to order the Commandant of B.M.M. Bamenda to produce the body of Hamido Hassan before this court and give an account why the ~~body~~ liberty of the said Hamido Hassan is restrained.

20.

The writ of Habeas Corpus is supported by a nine paragraph affidavit to which ^{is} annexed exhibit "A" the medical certificate of Hamido Hassan.

The writ was effectively served on the Commandant of B.M.M. Bamenda (see exhibit "A1" the proof of service) requesting him to produce the body of Hamido Hassan before this Court on the 19/6/98.

25.

The Commander of B.M.M. simply ignored the order of this Court that was served on him and after the matter suffered two successive adjournments, on the 29/06/98 I proceed to hear the matter.

30.

In the course of hearing the suit Mr. Ngwayi Gideon a pupil advocate of Sung Law Chambers adopted and relied on all the paragraphs of the affidavit and exhibit "A" attached to the writ of Habeas Corpus and submitted that if the Commandant of B.M.M. had any reasonable cause for keeping Hamido Hassan he should have come to the court to explain. Counsel for Hamido Hassan is deteriorating at the B.M.M. Cell and if he is not released the court should not be surprised to hear that he is dead.

He finally urged the court to order the immediate release of Hamido Hassan.

5. Upon reading through the writ of Habeas Corpus, its supporting affidavit and exhibit "A" attached thereto, Upon hearing Counsel for Hamido Hassan in person and Upon a careful consideration of the facts I am of the considered opinion that since the Commander of B.M.M Bamenda refused to produce the body of Hamido Hassan, and also failed to give to this Court details of the day and the cause of his capture and detention, there is no reason why I should not order the immediate release of the detainee as per the provisions of section 16(d) ^{new} of Law No. 89/019 of 29/12/1968 ~~and~~ and to declare that his detention is illegal. The facts deposed in the mine paragraph affidavit are unchallenged and in view of the fact that Hamido Hassan has been in detention now for more than two months and the situation of his health is ~~quite~~ disquieting, as per exhibit "A" attached to the affidavit, it is the duty of this court as the guarantor of human rights and the freedoms and liberties spelt out in the preamble of the Cameroonian constitution, to put an end to the deprivation of his liberty.

15. Before proceeding to hand down the consequent orders which the merits of this case deserves I consider it significant to point out here that it is rather unfortunate that law enforcement officers should refuse to submit to and to receive what has been directed by the court. The former Governor of this Province, Mr. Bell Luc Rene has appeared before me; and even the present Governor of the Province through his social and cultural Affairs Adviser has also submitted to the jurisdiction of this Court. That the forces of law and order ^{are} who ^{are} the auxiliaries of the Legal Officers and are obliged to complement and assist in the administration of justice should rather seek to drag the Institution of justice into the mud is rather embarrassing and smacks of disorder and chaos. Or is this not a veritable example of a kingdom fighting against itself?

