

**IN THE HIGH COURT OF JUSTICE OF THE F.C.T.**

**IN THE ABUJA JUDICIAL DIVISION**

**HOLDEN AT KUBWA, ABUJA**

**ON FRIDAY THE 29<sup>TH</sup> DAY OF APRIL, 2022**

**BEFORE HIS LORDSHIP: HON. JUSTICE K. N. OGBONNAYA**  
**JUDGE**

**SUIT NO. FJ/ /2020**

**MOTION NO: FCT/HC/422/2021**

**BETWEEN:**

1. CLIFFORD MZAHAN ZAKI
2. UKACHI ABRAHAM TERKIMBI
1. TIMOTHY AKPUSUGH
2. GONDU GLORY
3. EVELYN INDIA
4. DANLADI OTENE
5. ORTWAV GODWIN AONDOAKAA
6. KWAGHPELEGH IORYOOSU
7. PETER IMANCHE
8. MSUEGA KWAGHZEVER
9. HELEN TUUNA
10. GODWIN GOSU GBUKU
11. DORIS ZWATEMA
12. ROSELINE KAVEEN
13. MRS. ZWA DORATHY
14. JACOB ABAKA
15. AONDOFA KULEKWAGH
16. TEMA PETER TERNA
17. MIRIAM ANGER
18. DOOFAN HEMBE ZIPPORAH
19. AKANYON KWAGHDOO
20. AIDAH ORSHOJA
21. SWENDE CELESTINE
22. TERNA DAMATIM
23. IORTYER KUMUN
24. NGUVEREN UBULLAUN
25. SEWUESE GARI
26. MNGOHOL AYANDE

....JUDGMENT CREDITORS/APPLICANTS

27. DAVID TYOGYER
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31. INNOCENT ANUNDE
32. FRANCIS GARI
33. SHIMINENGE TYODAA
34. NATHANIEL GARI
35. ALANI PRISCILLA IVEREN
36. IGBO BEMSEN
37. NYIUTSA N. VIVIAN
38. GARI JOSEPHINE
39. AMA AMAALU
40. MSURSHIMA ORBUNDE
41. DUGHGBOR DICKSON
42. AMEH E. VICTORIA
43. NICHOLAS UMENGER
44. MARTHA KYELUWA
45. NYIKOMBU THADDEUS
46. JUSTINA U. KUSA
47. ATAKPA KWAGHSHA D.
48. MOSES GBATSORON
49. JERRY TARHEMBA
50. ROSEMARY AGAGBE
51. ADOO TOR
52. IORYOOSO TERSOO BENEDICT
53. KWAGHTER VINCENT
54. BENEDICT IKYOOSU
55. NYUMEGA AYEVESE
56. NAKA EDWIN M.
57. MARTINA NGIGA
58. DOGO MOSES
59. AGEE DORATHY
60. MERCY AONDO
61. JOSEPH NYIEKULA
62. ELIZABETH IGBAATO
63. MIMIDOO TIBEE
64. ANGER IGBA
65. AZENDA BUA
66. ACHEGI ORNGUGA
67. VIVIAN TINGIR
68. MNGUNONGUN KORGA

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70. SHAGBAKWASE ORMIN
71. AKAATA GRACE
72. ORKAA DOOFAN
73. TERFA T. ANJINGI
74. AYANDE TEGHTEGH
75. SATI MKARI
76. EMMANUEL ADZER
77. AONDOVER TYOGYER
78. RUEBEN ADOKA
79. KONGO PATIENCE ANAKURA
80. GRACE KUKU
81. HEMBAM ABAKO
82. UDOJI AKAATA
83. JECINTA JUGU
84. FIDELIS UKE
85. GRACE ALUMNAN
86. GRACE MEMBER AJOOBI
87. TERWASE BENEDICT IORDYE
88. IORNENGE MNGUTSWEN
89. ALEX AYANDE
90. GIVA NYIEVAA
91. TOR IORGYER
92. BEM AYAACAA
93. AYU CHRISTIANA UVERASHE
94. CHORUN TYOSUE SAMUEL .....JUDGMENT CREDITORS/APPLICANTS
95. JUDITH TAR
96. AANDE IKPA
97. TERLUMUN JOEL TSE
98. ADIKPE FRANCIS
99. VINCENT AYANDE
- 100.DOOSHIMA D. SHAKU
- 101.AGAGBE FELICIA
- 102.CHRISTOPHER WANGER
- 103.FAITH AGISHA
- 104.AFOR UVERASHE
- 105.DOOYUM AGISHA
- 106.MWUESE MBAKAA
- 107.TERSOO IGBANUM
- 108.TERWASE NYIOR
- 109.BOIGYO VICTORIA
- 110.VICTORIA T. BUNDE

- 111. HEMBADOON TWAV
- 112. ELIZABETH GBAWUAN
- 113. TYOLAHA GODWIN
- 114. VICTOR UNUM
- 115. HELEN SHOBO
- 116. UGANDE SAM
- 117. ALAFINTI ROSELINE
- 118. KENNETH ADURA
- 119. NONO SIMON
- 120. NANCY N. TYO
- 121. MNGUKENGER ADI
- 122. DAVID KUSA
- 123. AMOS DIMKA I. VANDE
- 124. ANDAR MARY
- 125. AYODO MATTHEW
- 126. SAMSON SHAGBAOR
- 127. NGONA AUDU
- 128. MERCY UHANGE
- 129. MOSES LUTSA
- 130. COSMAS GEH
- 131. TYODUGH VERONICA
- 132. MEGA BENJAMIN
- 133. AYANGEAOR CHRISTOPHER
- 134. ISAAC NONGUN
- 135. ZACHARIAH Z. ZAPE
- 136. TERWASE KUSA S.
- 137. IORLAHA ANKYOUGH
- 138. SILAS UUNGWA
- 139. TERFA AKULA
- 140. SIMEON TSWERGA
- 141. UGBACHE LAADI J.
- 142. MBALAMEN SHIWUA
- 143. TITUS GARI
- 144. NGUSHA ASANYI
- 145. MARTINA ADAM
- 146. PATIENCE O. OGBU
- 147. BLESSING ANGER
- 148. PRISCILLA MNENA IKPOCHI
- 149. OGBU EJEH KEMI
- 150. ANAS JATO
- 151. AKUTSA JUSTINA
- 152. DOOSUUR AKWANYA

.....JUDGMENT CREDITORS/APPLICANTS

**153.AONDONA C. KWAGHTSER**  
**154.KWEN ABRAHAM**  
**155.SIMON UKWENYI**  
**156.MWUESE BUAN**  
**157.AGEBE JUSTINA**  
**158.RITA KWAGHZER ADUGU**  
**159.AYANGEAKAA A. SYLVESTER**  
**160.ALUOR DAVID**  
**161.MARY DOO AKOMBU**  
**162.EVELYN LAADI SHUNYI**  
**163.EMMANUEL KYAV**  
**164.PAULINA BAR**  
**165.JIKA JULIA**  
**166.ALICE ACHOHO**  
**167.TERLUMUN ANGER**  
**168.MAGDALENE SEWUESE AKISHI**  
**169.HELEN AGADA**  
**170.DONALD MYOM ZWATEMA**  
**171.UTOR EMBERGA**  
**172.ISAAC ORSHIO**  
**173.JULIET M. UCHE**  
**174.AYANDE MEMBER**  
**175.AONDOAVER J. AGBEDE**  
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**177.MJEBE M. ALICE**  
**178.SIMON KPEV BUGHUR**  
**179.PHILIP USU**  
**180.TAVERSHIMA JONATHAN I.**  
**181.SIMON KAZEVE**  
**182.MKIR UTILE**  
**183.FELICIA ANNOR**  
**184.USHA MASENENGEN**  
**185.UKULE AONDOHUMBA G.**  
**186.TSEKAA TYOHUMBA**  
**187.ESTHER AZOM**  
**188.MBAORUN JESSICA YAGA**  
**189.ANYON SIMEON M.**  
**190.EVELYN ATSUE**  
**191.AZAHAN KUMAOR**  
**192.MARK TARKUA**  
**193.KENNETH HEMBAOR**  
**194.SUNDAY AYANDE**

**.....JUDGMENT CREDITORS/APPLICANTS**

- 195.SIMEON CHIA
- 196.GODWIN DZEVER
- 197.TORKEBI BENJAMIN
- 198.NEV DICKSON
- 199.IORFA ADOKI
- 200.TERNGU CHICHI
- 201.SEWUESE MOSES LUCY
- 202.GBAMWUAN GRACE
- 203.SHIMGBE WILLIAM

.....JUDGMENT CREDITORS/APPLICANTS

**AND**

- 1. GWER-WEST LOCAL GOVERNMENT
- 2. LOCAL GOVERNMENT SERVICE COMMISSION
- 3. BUREAU FOR LOCAL GOVERNMENT AND CHIEFTANCY AFFAIRS
- 4. BENUE STATE GOVERNMENT
- 5. ATTORNEY GENERAL AND COMMISSIONER FOR JUSTICE, BENUE STATE

JUDGMENT DEBTORS

**AND**

- 1. UNITED BANK FOR AFRICA PLC
- 2. FIRST BANK OF NIGERIA PLC
- 3. FIDELITY BANK PLC
- 4. ZENITH BANK PLC
- 5. UNION BANK OF NIGERIA PLC
- 6. POLARIS BANK

....GARNISHEES/RESPONDENTS

## **COURT RULING:**

Two Hundred and Four (204) Nigerians (Civil Servants) in the employ of Benue State Government filed a Suit sometime in 2017. After the long howl of litigation, God answered their prayer as Judgment was entered in their favour on the 2<sup>nd</sup> March, 2020 at the peak of the Covid-19 pandemic. They danced and jubilated.

In the Judgment the Court held and ordered that:

**“The cessation of the payment of Salaries of the Claimants (Judgment Creditors) is illegal and unlawful.”**

The Court ordered the Judgment Debtors to:

**“Compute and pay each of the Claimants their monthly Salaries and Allowances due to them from 1<sup>st</sup> March, 2017 to date within 30 days of this Judgment.”**

The Judgment Creditors waited in vain as the Judgment Debtors did not obey the Order of Court and did not file any Appeal challenging the Judgment of the High Court Benue sitting at Makurdi.

The Judgment Creditors, being law abiding citizens and civilized, engaged a professional Chartered Accountant of repute who carried out the computation of the respective Salaries and Allowances due to the Judgment Creditors. They forwarded same for payment to the Judgment Debtors who refused, neglected and failed to do the computation as ordered by the Court. The Judgment Debtors did not dispute the said computation. They did not dent it either. They did not equally pay the same. They did not file any Appeal challenging the Judgment of the Court.

In order to enjoy the fruit of their Judgment, the Judgment Creditors obtained a Certificate of Judgment, registered same in this Court. That is after they had written to the Chief Registrar of this Court and complied

with the provision of **S. 104 & 107 Sheriffs and Civil Process Act**. They filed an Exparte application with Affidavit in support in accordance with the provision of **S. 83 Sheriffs and Civil Process Act**. This Court granted the Application and gave an Order Nisi against the Garnishees attaching the Judgment Debtors fund in their custody for the payment of the total sum of **Three Hundred and Thirty Six Million, Five Hundred and Thirty Thousand, Eight Hundred and Eighty Three Naira (N336, 530,883.00)** which is computed and which was not challenged by the Judgment Debtors.

A copy of the Order Nisi was served on all the Garnishees and the Judgment Debtors. Upon receipt of same, the Judgment Debtors filed this application challenging the said Order Nisi, urging this Court to Set Aside the said Order Nisi.

On 13<sup>th</sup> October, 2021 this Court granted an Order Nisi which was a follow up for the enforcement of Judgment of the Industrial Court delivered in Makurdi, Benue State in Suit No. NICN/MKD/22/18 delivered on the 2<sup>nd</sup> March, 2020. The Order was based on the application made Exparte filed by the Counsel for the Judgment Creditors who were above 204.

The Order Nisi was against the listed Garnishees who were 11 in number.

The Court had adjourned the matter for the 11 Garnishees to show cause why the said Order cannot be made Absolute against them.



All the Garnishees showed cause. But Access Bank stated in its Affidavit to show cause that it has more than enough of the Judgment Debtors' fund in its custody and has already set it aside as per the Order Nisi.

Is it is statutorily required the Judgment Debtors were served with the said Order Nisi. On the 29<sup>th</sup> October, 2020 it filed this Motion urging the Court to set the Order Nisi aside because according to them it is incompetent, null and void. He also want an Order of the Court setting aside the restraining Order placed on the Accounts to include sum of money outside the Judgement sum sought to be enforced. He further wants an Order setting aside the purported registration of the said Judgement having been done without jurisdiction, abuse of Court Process, ultra vires, null and void or by way of forum shopping. There is also the Omnibus prayer.

The Motion is predicated on 13 grounds which are stated this:

**1. The Judgment sought to be enforced did not specify any Judgement sum to be enforced by way of Garnishee Proceedings; the Court merely stated "That the Defendants shall compute and pay to each of the Claimants their monthly salaries and allowances due from 1<sup>st</sup> March, 2017 to date within 30 days of this Judgement.,"**

**2. The Reliefs sought did not specify any amount by way of salaries and allowances; the Judgment Creditors' claim was in the nature of special damages**

**(Salaries and Allowances) required to be pleaded with particulars and proved strictly.**

**3. The Judgement sum of Three Hundred and Thirty Six Million, Five Hundred and Thirty Thousand, Eight Hundred and Eighty Three Naira (₦336, 530,883.00) only, forming the basis of the Garnishee Proceedings was calculated unilaterally by the Judgment Creditors, without any judicial input, legal or mathematical basis and submitted to Court for endorsement vides the Garnishee Proceedings.**

**4. The High Court of the Federal Capital Territory and Judgment Creditors cannot reopen the trial so as to award special damages to the Judgment Creditors, or add to, alter or vary the Judgment of the National Industrial Court in Suit No. NINC/MKD/22/2018.**

**5. By Section 102 of the Sheriffs and Civil Process Act the High Court of the FCT has no jurisdiction to determine any substantive claim or additional claim arising or based on the Judgment Suit No. NINC/MKD/22/2018, as the subject matter falls within the exclusive jurisdiction of the National Industrial Court invested by Section 254 C(1) of the 1999 Constitution as amended.**

**6. The Judgment of the National Industrial Court in Suit No. NINC/MKD/22/2018 was registered by the Judgment Creditors in the High Court of the FCT solely for the purpose of Garnishee Proceedings.**

**7. The condition precedent for the commencement of Garnishee or Enforcement Proceedings on a Judgment**

**registered under S. 104 of the Sheriffs and Civil Process Act, namely: the filing of a verifying Affidavit as in the 2<sup>nd</sup> Schedule to the Act prescribed by S. 107 of the Act, was not complied with before the Motion Exparte was filed.**

**8. S. 110 (b) of the Sheriffs and Civil Process Act was not complied with, in that the mandatory statutory notification to be given forthwith to the Registrar of the National Industrial Court upon the issuance of the Order Nisi was not given.**

**9. There was a Motion for Stay of Execution pending Appeal, Appeal No. CA/MK/138/M/2020, filed on 3<sup>rd</sup> September, 2020 which had been duly served on the Judgment Creditors before the instant Proceedings were initiated.**

**10. Purported service of the Garnishee Order Nisi on the Judgment Debtors and other parties outside the Federal Capital Territory was in violation of S. 97 and 99 of the Sheriffs and Civil Process Act.**

**11. By section 254 C (j) & (k) of the 1999 Constitution, the High Court of the Federal Capital Territory Abuja has no power to determine issues arising from or connected with or to enforce the Judgment in Suit No. NINC/MKD/22/2018, subject matter of the instant Garnishee Proceedings.**

**12. The purported registration of the Judgment of the National Industrial Court to the Sheriffs and Civil Process Act was null and void, as the Sheriffs and Civil**

**Process Act is inapplicable to Judgments and Proceedings of the National Industrial Court.**

**13. The 2nd, 6th, 9th and 10th Garnishes are not juristic persons known to law.**

The Motion was supported by an Affidavit of 5 paragraphs and there were 2 documents attached marked as **EXH A & B.**

**EXH A** is the motion filed by the Judgment Debtors for leave to Appeal against they said Judgment which is sought to be enforced. It also contains a copy of the said Judgment and the proposed Notice of Appeal. **Exhibit B** is a letter written by the Director Civil Litigation for the Attorney General and Commissioner of Justice Benue State.

In the Written Address the Judgment Debtors raised an Issue for determination which is:

**"Whether or not the registration of the Judgment and the entire Garnishee Proceedings in this case are liable to be Set Aside?"**

The Judgment Debtors submitted that the Order Nisi is based on the computation done by the Judgment Creditors without the agreement of the parties. That it was based on conflicting figures. Again, that Judgment Creditors did not plead or prove any item of special damages while establishing their claims before the Court. Also that there was no sum computed in the Judgment. That there was no reference made in any grade level, payment voucher, pay-slip or other yardstick by which

any such computation was to be made. That in law, Damages must be pleaded and proved with particulars. They referred to the case of:

**Xtoudos Services Nigeria Limited V. Taisei (WA) Limited**

**(2006) 15 NWLR (PT. 1003) LPELR 3504 (SC) P. 20 - 21**

That the Court declared the entitlement of the Judgment Creditors without specifying any sum due to them because no such sum was claimed in the Reliefs sought in the Originating Process. He referred to the Judgment of the National Industrial Court of 3<sup>rd</sup> February, 2020. That claim of Salaries and Allowances is a claim in Special Damages. He referred to the cases of:

**Adekunle & Ors V. UBA**

**(2018) LPELR - 41124 (CA) Pg. 36 - 38**

**IHABUNMB V. Anyia**

**(2011) 12 NWLR (PT. 1260) 1 @ 20 - 21 paragraphs H - A**

That there was no sum pleaded in this case in respect of each and/or any of the Judgment Creditors. That the Court made a blanket Order that their allowances and salaries be paid from 1<sup>st</sup> March, 2017 to date. That it is to be computed by the Judgment Debtors and paid to the Judgment Creditors. That they said Judgment cannot be enforced by Garnishee but by an action for contempt of Court.

That the Judgment did not Order the Judgment Creditors to compute their entitlements. That the Judgment

Creditors should have filed for contempt if the Judgment Debtors failed to compute as ordered by Court. That Declaratory Order or Judgment is not enforceable until the Plaintiff obtains an Injunctive Relief or Damages. He referred to the cases of:

**Oluruntoba-Oju V. Dopanu**  
**(2008) 7 NWLR (PT. 1085) 1**

**Enekwe V. International Merchant Bank Nigeria Limited**  
**(2006) 19 NWLR (PT. 1013) 146**

That what the Court is enforcing in this case is a computation done by the Judgment Creditors which is a violation of the Judgment sought to be enforced. That I said Judgment remains binding until it is Set Aside. He referred to the case of:

**Nokoer V. Government of Plateau State**  
**(2018) LPELR - 44350 (SC) 11**

That the Judgment in issue did not grant any sum certain as Judgment sum in favour of the Judgment Creditors.

That Court only and merely proclaimed that the Judgment Creditors are entitled to be paid all their salaries and allowances. That the Court was not in a position to Order any specific amount/sum as none was claimed or proved by evidence.

That in the absence of any yardstick to compute the salaries and allowances and in the absence of any agreement between the Judgment Debtors and Judgment Creditors on an sum certain as due under the Judgment,

that this Court lacks the jurisdiction under **S. 83 Sheriffs and Civil Process Act** to have made an Order Nisi attaching the Judgment sum as it did. That the Order Nisi is addition to the terms or alteration of the said Judgment. That by virtue of **S. 254 C (j) & (k) 1999 Constitution of the Federal Republic of Nigeria as amended** this Court has no jurisdiction to do so as the issue concerning salaries, allowances, wages, etc are vested exclusively with the National Industrial Court of Nigeria.

That the Garnishee Proceeding has been initiated by the Sheriffs and Civil Process Act. That the Act is not applicable to the National Industrial Court of Nigeria so as to make the Judgement registrable as it applies to the other High Court like Federal High Court. He referred to the cases of:

**MV Boko V. Nungwa**  
**(2019) 1 NWLR (PT. 1654) 398**

**Biem V. SDP**  
**(2019) 12 NWLR (PT. 1687) 377**

That the computation of figure did not show how much is due to Judgment Creditors, their time of retirement, how much is due to them at the time of Judgment and how much is due at the time of the Garnishment. That the Judgment Debtors are entitled to challenge the Garnishee of this Court. He referred to the cases of:

**Gwede V. Delta House of Assembly**  
**(2019) LPELR - 47441 (SC) pg. 35 - 40**

**UBN PLC V. Bear Marine & Anor**

**(2018) LPELR - 43692 (CA)**

That in this case the Judgment sum was being recognized for the first time vide the Order Nisi. That there was no need for a prior Order of Court recognizing they said Judgment some before the Order Nisi would validly issue. That the Court should have dismissed application for Order Nisi as it is an abuse of Court Process and Set Aside the Order Nisi granted. That the Order Nisi is contrary to **S. 83 Sheriffs and Civil Process Act.**

**Note:** Contrary to what the learned silk submitted as to Injunctive Order on the Account garnisheed, this Court did not make any Injunctive Order on the Account. This Court has not made the Garnishee Order Nisi Absolute.

Again, the Judgment Debtors were served the Order Nisi as required by law. That is the basis of the present application challenging the Order Nisi.

That the Certificate of Judgment did not follow due process of law because it did not state any amount as Judgment Sum. He referred to **S. 104, 107 & 110 Sheriffs and Civil Process Act** which he claimed were not complied with in this case. He urged to Court to resolve their sole Issue in their favour and Set Aside the Order Nisi.

Upon receipt of the Motion to Set Aside the Order Nisi and to Stay Proceeding, the Judgment Creditors filed a Counter Affidavit of 11 paragraphs on the 22<sup>nd</sup> November, 2021 and they attached 2 documents - **Application to Register the said Judgment dated 15<sup>th</sup> December,**



**2020 and Motion in compliance to S. 107 of the Sheriffs and Civil Process Act.** These documents were served on the Judgment Debtors.

In the Written Address they raised two (2) Issues for determination which are:

**"Whether the Judgment Creditors have vividly registered the Certificate of Judgment for the purpose of enforcing this Judgment therein vide Garnishee Proceedings?"**

**"Weather in the whole circumstance of this case the Order Nisi granted by this Court is competent and not in any way vitiated?"**

**On Issue No. 1**, the Judgment Creditors submitted by first responding to the submission of the Judgment Debtors that the Sheriffs and Civil Process Act does not apply to cases determined in Industrial Court, that contrary to the said submission of the Judgment Debtors that they issue decided by the Supreme Court in the two (2) cases cited by the Judgment Debtors -

**Boko V Nungwa Supra and**

**Biem V. SDP Supra**

were on service of Processes of the Federal High Court outside jurisdiction. That the said decision was not on **S. 104 and 105 Sheriffs and Civil Process Act** dealing with obtaining a Certificate of Judgment and Registration of Judgment in another Court for purpose of Execution. That National Industrial Court was not mentioned in the two (2) cases. The Judgment Creditors submitted that Sheriffs

and Civil Process Act is an enactment of the National Assembly - **S. 4 of the 1999 Constitution of the Federal Republic of Nigeria as amended** as to power of National Assembly to make laws. He referred to the said case of:

**SDP V. Biem & Ors Supra**

That Certificate in this case was not registered for enforcement of the Judgment at the National Industrial Court. It was registered in the FCT High Court. The Judgment Debtors did not dispute the fact that the provision of the Sheriffs and Civil Process Act applied.

In answer to the question posed in the question No. 1 as raised, the Judgment Creditors submitted that they totally complied with the provision of the ACT as contained in **S. 105** vide the application they wrote to the Chief Registrar of this Court on 15<sup>th</sup> December, 2020 which they attached as **EXH 1**. They relied and cited extensively the case of:

**CBN V. Chief Obla Ubana & Ors  
(2016) LPELR - 40366 (CA) Pg. 12 Paragraphs B - D**

That Judgment Creditors complied with the provision of **S. 105 Sheriffs and Civil Process Act**. That by so doing that Judgment becomes the Judgment of this Court going by **S. 108 Sheriffs and Civil Process Act** for the purposes of execution. He in support cited the case of:

**Skye Bank V. Seph Investment Limited & It's  
(2016) LPELR - 40296 (CA) @ 17 - 19 Paragraphs D - A**

Resubmitted that the Certificate of Judgment was validly registered in this Court.

On the contention by Judgment Debtors that Judgment Creditors did not comply with **S. 104 and 107** with respect to stating the amount of Judgment Sum in the Certificate and filing Affidavit as to the amount upon which the execution is to be levied, the Judgment Creditors submitted that the Certificate conforms with the terms of the Judgment in that the Reliefs granted to Judgment Creditors on the basis of the execution to be levied are contained in the Certificate as stated in the Judgment. That given the two (2) Exhibits attached to their Counter Affidavit, the Judgment Creditors complied with the Section before the Garnishee Order was sought and obtained. That the amount stated in the Affidavit as the amount has been the amount which is to be levied. He urged Court to discontinuance the submission of the Judgment Debtors in that regard.

On the Judgment Creditors not complying with provision of **S. 110**, the Judgment Creditors submitted that the notification is the responsibility of the Registrar of this Court not that of the Judgment Creditors. That failure to do so by the Registrar should not be visited on the Judgement Creditors. Again, that the Judgment Sum has not been paid and there is no time frame within which the Registrar should do it as it is at the exclusive discretion of the Registrar not on the Judgment Creditors. He referred to the case of:

**Duke V. Akpabuyo LG  
(2005) LPELR - 963 (SC)**

He urged Court to hold that the Order Nisi is not affected by **S. 110 Sheriffs and Civil Process Act.**

He submitted that registration of the Certificate of the Judgment in this Court for purposes of Enforcement should not be construed as forum-shopping as a Judgment Debtors contend. He referred to the case below:

**Maitantarki V. Tongo & Ors**

and submitted that the decision in that case is not opposite in the circumstances of this case.

**On Issue No. 2,** he submitted that contrary to submission of the Judgment Creditors to the effect that since Judgment sought to be enforced did not specify any amount as Judgment sum the Order Nisi is incompetent, Judgment Creditors submitted that in so far as the amount was computed and the fact that the Judgment is a monetary Judgment and it is based on Allowances and Salaries of the Judgment Creditors, it can be enforced vide Order Nisi and such Order so obtained cannot be disputed in that regard. Again, that the Judgment Debtors who had disobeyed the Order of Court to compute the said Salaries and Allowances since the Judgment was delivered on 2<sup>nd</sup> March, 2020 cannot complain. More so, when the Judgment Creditors had waited for the Judgment Debtors to comply with Court Order and had computed and sent to the Judgment Debtors for settlement. Besides, the Judgment Debtors received the computation and did not dispute same or raise any issue as to correctness or otherwise.

That based on the decision in the case cited by the Judgment debtors:

**Unilag V. Oluwasamni & Ors  
(2017) LPELR - 42305 @ 12 Paragraph F**

it was held:

**"That condition precedent for enforcement of Judgment by Garnishee is that ... the sum is specifically stated in the Judgment or agreed upon by the parties or is capable of mathematical computation from the Judgment."**

That based on that decision, it is not the law that the monetary sum in a Judgment must be specified before it can be enforced vide Garnishee Proceedings. That amount agreed by parties can be the basis of the Garnishee Proceeding or arrived based on mathematical calculations.

That the salaries and allowances of the Judgment Creditors are certain and known as they are in the employment of the Judgment Debtors and as such it is capable of mathematical computation from the Judgment. That in the Judgment ordered that the Judgment Debtors should "**compute and pay.**" That based on that there was basis for the computation. That the Judgment Creditors know their Salaries and Allowances. That failure of the Judgment Debtors to respond or challenge or refuse the computation done by the Judgment Creditors means that the Judgment Debtors have admitted the said computation. That after all they do not have any computation before the Court. That by that the Judgment debt/sum was agreed upon by the parties. Hence the

Judgment Creditors approaching the Court for Order for the Garnishee based on the said computation which is not disputed is justified. They cited the case of:

**Ogundimu & Ors V. Akinyemi**  
**(2020) LPELR - 49681 (CA) Pg. 53 - 54 Paragraphs F - A**

where the Court held that:

**"Where a party fails to respond to a business letter by its nature requires to a response, it will amount to an admission if the party does not respond."**

He also referred to the case of:

**Hassan V. Obodoeze & Ors**  
**(2012) LPELR - 14355 Pg. 36 - 40 Paragraphs D - A**

He urged Court to hold that by the nature of the claims in the Suit pursuant to which the Order of the Court was made directing the Applicants to compute the amount of the Judgment debt, the monetary relief granted is **"capable of mathematical calculation from the Judgment."** That the computation by Judgment Creditors having not been challenged or disputed by Judgment Debtors, the amount of the Judgment debt has been **"agreed upon by the parties"** as held in the case of:

**Kaduna Polytechnics V. Garba Supra**

And that the Order Nisi granted by this Court is competent and remains competent.

On the argument of Judgment Debtors that the amount granted by the Court in the Order Nisi was done without jurisdiction as it was in the nature of special damages in

view of **S. 254 Constitution of the Federal Republic of Nigeria 1999** as regards exclusive jurisdiction of Industrial Court in labour matters, the Judgment Creditors submitted that by the valid registration of the Judgment in this Court, the Judgment has become the Judgment of the FCT High Court for the purpose of execution. That the issue of the Judgment being Special Damages that was supposed to be exclusively pleaded does not arise. So also usurping the powers of the National Industrial Court does not also arise. That all cases relied upon by the Judgment Debtors are not apposite. He urged the Court to dismiss the application and hold that the Order Nisi is competent.

On the Order Nisi been lapsed, the Judgment Creditors submitted that as long as the matter remains in Court that granted the Order Nisi awaiting for the Garnishees to show cause, the Orders Nisi cannot lapse since there is no Appeal pending or entered in this case. The case of **Abraham V. Amodeni Supra** does not apply and the Order needs he is competent and has not lapsed. He urged Court to so hold.

On the submission that the Judgment Debtors have filed an Appeal against the Judgment sought to be enforced, and the application for Stay of Execution, the Judgment Debtors relied on the case of:

### **Delta Government V. Kay Que Limited**

He submitted that the pendency of Appeal against the Judgment sought to be enforced and Motion for Stay of execution does not prevent a Judgment Creditor from

initiating Garnishee Proceeding to enforce the Judgment. He referred to the case of:

**Nigeria Agi P Oil Company Limited V. Peter Ogini & Ors**

That based on the decision on the above case it material that where there is application for a pending Stay of Execution that Garnishee Proceeding can still go on.

That competent Appeal or Notice for Leave to Appeal must be done within 3 months from date of Judgment. That Motion of the Judgment Debtors was filed on 11<sup>th</sup> September, 2020 while the Judgment was delivered on 2<sup>nd</sup> March, 2020 more than six months after the Judgment was delivered. That both the Notice of Appeal and Motion for Leave to Stay Execution were all filed belatedly as the time of the Judgment Debtors had lapsed. That **EXH A** attached cannot avail the Judgment Debtors as the **EXH A** cannot preclude the Judgment Creditors from initiating Garnishee Proceeding. He referred to the case of:

**Registered Trustee of Foursquare Gospel Church V. Prof. Frank Okosibor & Ors**

**(2006) LPELR - 6161 (CA) Pg. 9 - 10 Paragraphs E - A**

That the Judgment Debtors did not file any Motion for Extension of Time and have not gotten the leave which must be first sought and obtained before initiating the Appeal. That failure to do so renders the submission of the Judgment Debtors incompetent and liable to be dismissed.



That all Garnishees were served with the Order Nisi as the Judgment Debtors. They did not raise any issue on that. That contrary to the unfounded submission of the Judgment Debtors, the Order Nisi is not in any way vitiated by reason of service. He urged Court to discontinuance the argument of the Judgment Debtors in that regard.

He urged Court to hold that the Certificate of Judgment was validly registered in this Court and that the Garnishee Proceedings and the Order Nisi granted are very competent. He urged Court to dismiss this application and make the Order Nisi Absolute.

Upon receipt of the Counter Affidavit the Judgment Debtors filed a Further Affidavit of 6 paragraphs stating that the Deponent to the Counter Affidavit did not disclose her full name and did not tell Court the source of her information. But a look at the Counter Affidavit shows that the Deponent stated her name in the document and she also stated her address which is same as that of the Judgment Creditors lead Counsel. That she did not obtain consent of the lead Counsel to the Judgment Creditors and authority to depose to this Affidavit. She did not disclose source of the information as regards paragraph 2 of the Counter Affidavit. It is important to point out that the Deponent had stated in the Affidavit, paragraph 2 of the Counter Affidavit of the Judgment Creditors that the information in the Counter are based on her knowledge. That the computation done by the Chartered Accountant was not attached. That Industrial Court did not direct the Judgment Creditors to compute the Judgment sum and

submit to Judgment Debtors. That Judgment Debtors rejected the computation based on the letter dated 11<sup>th</sup> January 2021 - **EXH B** because the matter cannot be entertained pending the determination of the Appeal and Motion which are still pending at Makurdi Court of Appeal. That Judgment Creditors has not challenged same. That Court cannot entertain the case pending Appeal.

That all bank accounts attached by the Order Nisi are domiciled in Makurdi Branches of the Garnishees.

In their Reply on Points of Law to the Counter Affidavit, the Judgment Debtors submitted that the Counter Affidavit did not disclose full names contrary to the provision of **S. 107 (1) (b) Evidence Act** which prohibits initials in Affidavit. It is also a hearsay and inadmissible. They referred to the case of:

**Ishaya Bamaiyi V. The State  
(2001) 8 NWLR (PT. 715) 270**

The Deponent did not disclose source of the information and circumstance in which she acquired the information and knowledge. That by virtue of **S. 192 Evidence Act** the Affidavit is inadmissible. That Court should not permit the evidence. That by **S. 19 Rules of Profession Conduct** the Deponent was not competent to do so - disclose information given to her by her client without the client's consent. He urged Court to discountenance the Counter Affidavit.

On validly Registered Certificate of Judgment for purpose of enforcing same, the Judgment Debtors replied that the

case of **Biem V. SDP and Boko V. Nungwa** does not support the submission of the Judgment Creditors. The Judgment Debtors submitted that the assertion is misleading. That Supreme Court said that the Sheriffs and Civil Process Act does not counterpart any other Court apart from State High Courts and FCT High Court. That Federal High Court and Industrial Court was not mentioned in the Sheriffs and Civil Process Act. The Industrial Court has not adopted the powers of the Sheriffs and Civil Process Act. That Industrial Court has the whole federation as its territorial jurisdiction.

That **S. 104 Sheriffs and Civil Process Act** upon which the registration is based does not support the contention of the Judgment Creditors. That the provision only applies to FCT and State High Court. He referred to the case of:

**Buhari & Anor V. Yusuf**  
**(2003) 14 NWLR (PT. 841) 446**

That Industrial Court is not competent to issue any Certificate of Judgment pursuant to **S. 104 Sheriffs and Civil Process Act** or any other law for its Judgment to be enforced by another Court. The purported certificate **EXH 1** to the Counter Affidavit is void and the subsequent registration and Order Nisi based thereto is a nullity. He referred to the case of:

**UAC V. Mcfoy**  
**(1962) AC 1**

That Judgment Debtors cannot be denied fair-hearing since they have filed Appeal and Motion for Stay of Execution. That they cannot be held liable for contempt in

not computing the Salaries and Allowances of the Judgment Creditors as ordered by the Court. They referred to the case of:

**FAT B Limited V. Ezegbu  
(1992) 11 - 12 SCNJ 1 @ 14**

That since the Salaries and Allowances are uncertain and no claim was made for payment of Salaries and Allowances and no proof adduced before the Court, the correct amount to be paid is still unproved. That computation can be done by the Judgment Creditors means that it is matter within their peculiar knowledge that still requires proof as far as this case is concerned. He referred to **S. 140 Evidence Act.**

That Judgment Debtors wrote to Judgment Creditors after they received the computation stating that they have challenged the matter on Appeal, that all steps towards enforcement should be put on hold. They referred to **EXH B.** That the cases cited by Judgment Creditors in this case are distinguishable from the facts of the case and unavailing.

That Judgment Creditors did not name the Chartered Accountant who did the computation and did not put the computation before this Court. They referred to **SS 131 & 146 Evidence Act 2011.**

That the Judgment Debtors, as a party, having been served the Order Nisi, they have a right to be heard in Garnishee Proceeding and have a right to Appeal against any determination by this Court where it is unfavorable to them. It is after Judgment Debtors is heard that Court

can proceed with the Garnishee Proceedings. They referred to the case of:

**Mohammed V. Olawumi**

**(1993) 4 NWLR (PT. 287) 254 Paragraphs 47 - 48**

They urged Court to discontinuance the submission of the Judgment Creditors and uphold this application and grant same.

## **COURT**

It is the hope and dream of every Judgment Creditor to enjoy as soon as possible the fruits of his Judgment. But oftentimes such dream and hope are quashed/dashed because of often protracted Appeal which most Judgment Debtors file most of the time as a ploy to frustrate the Judgment Creditor. This is usually in the form of Motion to Stay Execution, Motion to Set Aside the Execution and Enforcement of the Judgment and Notice of Appeal. Most of these Notices of Appeal are usually abandoned. They never see the light of the day. But in a few occasions where the Judgment Debtor has strong feeling and conviction that it has an Appeal on the merit, such Judgment Debtor pursues it with all vigor even beyond the Court of Appeal up to the Supreme Court. Well, it is the right of every Judgment Debtor who is not satisfied with the Judgment of the Court of first instance to go to the Court of higher Judicial Allotment. Anyway, where such Appeal has merit the Court will pronounce it so. Otherwise the Judgment of the lower Court will be enforced as it will stand.

Having summarized the stances of the parties in this application, should this Court grant the application by setting aside the Order Nisi, setting aside registration of the Judgment in issue in that it has no jurisdiction to do so and doing so is an abuse of Court Process, ultra vires, null and void? Again, is there merit in the Counter Affidavit of the Judgment Creditors bearing in mind that the Deponent did not write her name in full and that there is purported pending Appeal against the said Judgment and that the computation by Judgment Creditors is not ordered by the Court? The Court will not answer the questions seriatim.

To start with, it is a known fact that upon registration of any Certificate of Judgment the Judgment becomes and is deemed to be the Judgment of the Court where it is registered. See the cases of:

**CBN V. Oblanbana**

**Skye Bank V. Seph Investment**

It is the humble view of this Court that the Order Nisi was properly done as there was an application filed by the Judgment Creditors requesting for the registration of the Judgment in this Court. That letter was written on the 15<sup>th</sup> December, 2020. It was served on the Chief Registrar and Deputy Sheriff of this Court on the 15<sup>th</sup> December, 2020. Certificate of Judgment by the National Industrial Court was attached. It was based on that Order that this Court heard the Exparte application for an Order Nisi and made the said Order based on the cogent facts in the Affidavit in support of the said Order. This Court has

jurisdiction to do so. The Judgment was properly registered and the Order Nisi was properly given.

Again, the submission of the Judgment Debtors that Order should be set aside because the Deponent did not write her name in full is not a fact strong enough to nullify the Order of this Court. To start with, the Deponent is known to the Defendants/Judgment Debtors/Applicants. She has been a part and parcel of the Suit from inception before the Judgment was delivered. She is very conversant with the facts deposed to in this case having been a Counsel in this case particularly to as regards obtaining the Certificate of Judgment and its registration. These are facts she deposed to having been involved as a Counsel in the matter and having made the said application from their Chambers. She is also conversant with the Judgment too being a Counsel. She is aware of the content of the said Judgment. So also, she is a Counsel in the matter as described by the Judgment Debtors. She is naturally conversant with the application written for registration of the Certificate of Judgment in this case. She is also naturally involved and well informed about the computation which her Chamber made for and on behalf of the Judgment Creditors. She is also aware of the Judgment Debtors not having responded or challenged the computation and the extent of the purported Appeal and Stay Execution filed by the Judgment Debtors. And of course, she is conversant with the Motion Exparte for the Order Nisi and the Order Nisi which is challenged.

So based on all the above, this Court holds that failure of the Deponent to state in full her middle name in the

Counter Affidavit will not make this Court to vacate the Order Nisi or set aside the Order Nisi. She is conversant with the fact she had stated. More so, she has her picture attached to the said Counter Affidavit. Besides, the issue of omitting her middle name is mere regularity

This Court shall not set aside the Order Nisi and the registration of the Judgment based on a purported pending Stay of Execution and Appeal. This is because there is no pending Appeal in this case. Again, no Appeal has been entered in this case to challenge the said Judgment.

The Judgment Debtors were supposed to file an Appeal against the Judgment within 30 days after Judgment was delivered, failure of which they have right to do so by Motion for leave to file and obtain Notice of Appeal. But they did not do so within the stipulated period of 30 days. Again, the right to seek leave to file is not in perpetuity. It must be done within a reasonable time not till eternity. In this case, they filed as they claimed the Motion for Leave to Appeal the said Judgment about 6 months after the Judgment was delivered. That is on the 3<sup>rd</sup> September, 2020 - that is about 3 months before the Order Nisi was made and 6 months after the Judgment was delivered. Until the time the Order Nisi was granted they have not moved the Motion. There was no leave granted to them to Appeal against the Judgment. And very obviously there was no Notice of Appeal filed or any Appeal entered by them. There is no evidence that Record of Appeal has been compiled and transmitted to Court of Appeal. It is unless and until that is done that it can be said that there is a



pending. In this case, there is no such pending Appeal. In as much as the Court of Appeal is very busy, it would not have taken so much time to hear and determine a mere application for Leave to Appeal. It is evidently clear that the said Motion for Leave to Appeal is a ploy and deliberate act by the Judgment Debtors to frustrate the Judgment Creditors from enjoying the fruits of their Judgment which is their right to enjoy. That is most unfortunate.

There is no pending Stay. The Supreme Court had reiterated in most recent cases that Motion for Stay of Proceedings is not a Stay of Proceeding. That unless there is a Stay - Order to Stay Proceeding the Court becomes and Court seized of the matter should continue. The Court agrees totally with the submission of the Judgment Creditors on this. The Court also adopts same as if set herein seriatim. So also the Court adopts all the Authorities cited by the Judgment Creditors in their Written Address in this regard.

This Court holds that there is no Order for Stay of Execution of the Judgment upon which the Order Nisi is predicated. This Court holds that it cannot set aside the said Order as sought by the Judgment Debtors in this application based on their submission.

This Court cannot set aside the Order Nisi because the Registrar of the FCT High Court did not serve a copy of the Order or the failure of the FCT Deputy Sheriff to notify the Registrar of the Industrial Court upon the issuance of the Order Nisi. This is because it is not the fault of the

Judgment Creditors that the notification was not made. It is the fault of the Court. The Judgment Creditors cannot therefore suffer for the "**judicial sin**" committed by the Registry of this Court. That sin was not also committed by the Counsel to the Judgment Creditors. This Court cannot punish the Judgment Creditors because of that and cannot deny them the fruit of their hard-earned Judgment.

The Judgment Debtors had not filed any Appeal against the Order Nisi. They have not filed any application to Stay the Garnishee Proceeding too. The case relied on by the Judgment Debtors is not applicable in the instant case because in that case what the Court decided was the challenge that the Judgment Debtor in that case is not a party to the Garnishee Proceeding which was made Absolute. The Court in that case frowned at the lower Court for not allowing the Judgment Debtor in that case to be heard. That is quite different from the present case.

It has been held in plethora of cases recently. See the following cases:

**Unity Bank PLC V. Engr. Emmanuel Adeleke Benedict (2021) LPELR - 54549 (CA) @ 39 Paragraphs B - D**

**AGIP V. Peter Ogini Supra**

Where the court held that:

**"Issue of pending Appeal is not of any monument in the absence of ANY ORDER OF STAY OF EXECUTION since in law pendency of an Appeal simplicity without move does not operate as a Stay of Execution ... which**

**can only be obtained upon proof of special or exceptional circumstance why a successful party should be deprived of the fruits of its Judgment pending the determination of an Appeal."**

This position was raised earlier in the case of:

**Purification Techniques Nigeria Limited V. Attorney General Lagos State  
(2004) LPELR - 7424 (CA) @ P. 10 Paragraphs D - F**

By the provision of S. 24 Court of Appeal Act, the Judgment Debtors is supposed to have filed the Appeal within 90 days. But they did not. Again, the application for leave to file should be done within 90 days too. But the Judgment Debtors filed theirs 6 months after.

There is no application for Extension of Time to do so having filed out of time. That alone makes their Motion for leave to be incompetent before the Court of Appeal. See the case of:

**Registered Trustee of Foursquare Gospel Church Nigeria V. Prof. Frank Okosibor & It's  
(2006) LPELR - 6161 (CA)**

That is why this Court holds that it **shall** not set aside the Order Nisi and that it has jurisdiction to do so. See also the case of:

**Zodi V. Annasara  
(2018) LPELR - 46597 (CA)**

**Adelekan V. Ecu-line Murine Vessel (MV)  
(2006) LPELR - 113 SC @ P. 15 Paragraphs B - A**

Where that is the case as the Judgment Debtors had failed to seek extension of time having filed their motion for leave out of time, their application is incompetent and liable to be struck out.

On the big issue - on the competency of this Court to register the Judgment. It is the view of this Court that it has jurisdiction to do as it did. The registration was done following the laid-down procedure. There was an application. There was a Motion supported by facts upon which the application was predicated. Those facts were very cogent. The application was not challenged. The Certificate of Judgment was duly registered and upon that registration the Judgment Creditors have right to come by way of Motion Exparte to seek for Order Nisi. They did. This Court granted the Order Nisi based on its merit.

It is imperative to state that once a Certificate of Judgment is registered, that Judgment in issue automatically becomes the Judgment of the Court where the registration is done. Upon such registration that Court shall enforce the Judgment the way it enforces all other Judgments obtained from that Court. That is exactly the situation in this case. The Certificate of Judgment was registered in this Court. This Court upon that application and subsequently the registration became the Court **"where the Judgment was supposed supposedly delivered."** It owned the Judgment. By that registration the National Industrial Court is no longer the owner of the Judgment. The FCT High Court becomes the owner and as such has a right to enforce and execute same as if the Judgment originally belongs to it. So notwithstanding that

the Registrar of the FCT High Court did not notify the Registrar of the National Industrial Court, the Judgment Creditors should not be denied the fruit of the Judgment because it is not their fault that the Registrar of the FCT High Court did not do its duty.

This Court shall not set aside the restraining Order made/placed on Account of the Garnishee to set aside the Judgment sum as it pertains to the Order Nisi because the Court has jurisdiction to grant the Order Nisi. This Court refers to the recent case of this Court unreported:

**Juliana Igweka & 97 It's V. Benue State Government & Ors**

The registration of the Certificate of Judgment is not an abuse of Court Process. It is not ultra vires. It is not null and void. It is a decision taken according to the law and provision especially the provision of **S. 104 - 105 Sheriffs and Civil Process Act and the extant provision of the Constitution S. 254.**

Contrary to the submission of the Judgment Debtors on the provision of the Sheriffs and Civil Process Act not being applicable to the National Industrial Court in that the Industrial Court is not affected and covered by the Sheriffs and Civil Process Act and that it has a right to enforce its Judgment without following the Sheriffs and Civil Process Act. It is imperative to take a good look at the extant provision of the Sheriffs and Civil Process Act.

This Court strongly holds that the Industrial Court is bound by the provision of the Sheriffs and Civil Process Act as far as enforcement of Judgment is concerned just

like any other High Court of a State or the High Court of Federal Capital Territory.

To start with, **S. 254 D 1999 Constitution of the Federal Republic of Nigeria as amended 4th Alteration** provides that:

**"National Industrial Court shall have all the powers of a High Court of any State and FCT and even Federal High Court which is also a High Court** (emphasis mine).

Again, it is important to state that the preamble to an act of the National Assembly like the Sheriffs and Civil Process Act is an introductory statement in a document or statute like the Sheriffs and Civil Process Act. It explains the basis of the documents or statute and its objective in a nutshell and the purpose for which the statute is designed for. See **Blacks Law Dictionary 9th Edition Page 1214**.

A closer look at the preamble to the Sheriffs and Civil Process Act shows that it is:

**"An Act to make provision for the appointment and duties of the Sheriffs, the enforcement of Judgments and Orders and the Services and Execution of Civil Process of the Courts throughout Nigeria."**

From the above, it means that the Sheriffs and Civil Process Act covers the issue of enforcement of all Judgments from every/all Courts including Industrial Court and execution of Processes of Court. So based on that, the issue of Industrial Court not covered by it or not being under it as the Judgment Debtors have laboriously countered does not apply. The argument cannot stand

because the Industrial Court and its Judgments are subjected to the provision of the Sheriffs and Civil Process Act. After all, the Industrial Court has the powers of a High Court according to the Constitution **S. 254 D**. So the implication is that any Certificate of Judgment from that Court can be registered as any other Certificate of Judgment of any other High Court of a State, FCT and even Federal High Court all of which are High Court recognized under the Constitution of the Federal Republic of Nigeria as amended. Based on that, the argument of the Judgment Debtors that the registration of the Judgment Certificate in this Court by the Judgment Creditors is wrong, null and void and an abuse of Court Process and without jurisdiction is highly misconceived. This Court, having registered the said Certificate of Judgment, has jurisdiction to do so. Again, the Order Nisi upon which the said registration was done is competent, proper, lawful, judicially and constitutionally legal. Even in the interpretation, **S. 2 Sheriffs and Civil Process Act** Courts under the Act includes a "**High Court**" of which the Industrial Court has the same power like a High Court. So whatever duties and obligations of a High Court under the Act applies to the Industrial Court which has the same power as a High Court going by **S. 254 (D) of the 1999 of the Constitution of Federal Republic of Nigeria as amended**.

By **S. 19 of the Sheriffs and Civil Process Act**, Court includes:

High Court of the FCT or the State.

**By S. 83 (1) Sheriffs and Civil Process Act, upon Exparte application any person who is entitled to benefit of a Judgment ... for payment of money ... under such Judgment ... upon Affidavit by Applicant or his Legal Practitioner ... that the Judgment is still unsatisfied and to what amount and that any other person is indebted to such a Debtor and is within the State ... other than Debtor owing from the third party ... Garnishee ... shall be attached to satisfy the Judgment.**

The above shows that, once the amount is specified and not yet satisfied, the Court can grant the Order Nisi.

Again, it is done by Motion Exparte filed either by the Judgment Creditor or his Counsel.

In this case, the amount was specified and not satisfied yet. The provision of **S. 83 (1)** applies to Court - High Court of which the Industrial Court is part of like the FCT High Court. This provision did not specify State or FCT High Court. Just as it did not exclude the Industrial Court. A copy of the Order Nisi was served on the Judgment Debtors in line with the **S. 83 (2) Sheriffs and Civil Process Act**. They decided to challenge same. Hence this application. It is their right to do so. But it is incumbent on Judgment Debtors to convince this Court by giving cogent reason why the Court should set aside the Order Nisi.

This Court has weighed the facts relied upon by the Applicant/Judgment Debtors in this case and the Court



has not seen and is not convinced by the facts relied upon to sue the Court to Set Aside the Order Nisi.

By **S. 104 Sheriffs and Civil Process Act** a Judgment Creditor can obtain Certificate of Judgment from the Registrar of the Court that delivered the Judgment. That is exactly what the Judgment Creditors did in this case as shown in **EXH 2** exhibited by them in their Counter Affidavit.

By the provision of S. 105 Sheriffs and Civil Process Act upon production of such Certificate of Judgment to the Registrar of another Court (which did not give the Judgment) but with like jurisdiction in any other State or in FCT, such Judgment shall be registered. In a nutshell, the Judgment of a Court can be registered in another Court once there is evidence of the Certificate of Judgment from the Court where the Judgment emanated from upon application. In that case, such Judgment must be Judgment of a High Court of a State or FCT. It must come from another Court. It is imperative to state that if such Judgment emanates from the Industrial Court which has the same power as the State High Court or FCT High Court. It can still be registered in any High Court of a State or the FCT. Again, such Certificate of Judgment is entered in a book called:

**"The Nigerian Register of Judgments."**

By providing that such Judgment be entered in the Nigerian Register of Judgments suggests and implies that it is national and "**Nationally Universal**" in that regard. That means it is open for all such Judgments from High

Court of State and FCT or its equivalent including Industrial Court which has the same powers as a High Court by **S. 254 (D) (1) 1999 Constitution of the Federal Republic of Nigeria as amended** which provides that day "Industrial Court shall have all the powers of a High Court."

If it was the intendment of the Drafters of the Constitution and the Sheriffs and Civil Process Act that the Industrial Court will not be affected or be subjected to the provision of the Sheriffs and Civil Process Act, it would have stated so. The Constitution would have had an exception showing that the Industrial Court has the power of the High Court save and issue of enforcement of its Judgment. But there is no such provision both in the Constitution and the Sheriffs and Civil Process Act. That is why this Court holds that the Industrial Court as the High Court of any State is subject to the provision of the Sheriffs and Civil Process Act on the issue of execution and enforcement of its Judgment and also on its registration of Certificate of its Judgment since it has the same power as any High Court. That is why this Court holds that it has the jurisdiction to make the Order Nisi and cannot Set Aside the Order Nisi it made in October 2021. By virtue of the registration of the Certificate of Judgment, as made by the Industrial Court, the said Judgment became and is deemed, going by the provision of **S. 108 Sheriffs and Civil Process Act**, to be and actually becomes the Judgment of this Court. By that, the said Order Nisi is competent, valid, legal and constitutionally lawful. So also the registration of the

Judgment of the National Industrial Court. See **S. 105 (1) & (2) Sheriffs and Civil Process Act**. This Court has a right and power under the Sheriffs and Civil Process Act to set aside money outside the Judgment sum sought to be enforced because such money is what is used to offset the cost of the Garnishee Proceeding as long as the money belongs to the Judgment Debtors whose responsibility it is to bear the cost of such Proceeding. See **S. 106 Sheriffs and Civil Process Act**.

In this case, the Judgment Creditors had totally complied with the condition for registration and the process of execution of the Judgment in compliance with the provision of **S. 107 Sheriffs and Civil Process Act**. Judgment Creditors complied by filing Affidavit showing that there was Order of the Court in the Judgment, that the Judgment Debtors should compute the salaries and allowances of the Judgment Creditors within 30 days and pay same. It shows that the amount is due and unpaid. It shows that the Order of Court was not obeyed and remained unobeyed. They showed that the Judgment Debtors who were meant to obey the Order of Court in the Judgment failed, refused and ignored to do so.

This Court cannot Set Aside the Order Nisi because, even as I deliver this Ruling, there is no application by the Judgment Debtors to Stay the Order Nisi granted by this Court since October 2021. That Order remains unchallenged in that regard. So this Court holds. There is no application to Stay Garnishee Proceedings in this Suit. See **S. 109 Sheriffs and Civil Process Act**.

On the issue of the Judgment Sum being uncertain, it is the humble view of this Court that the Judgment Sum in this case is certain. This Court relies on the recent Judgment of this Court in the case of:

**Juliana Igweka & 97 Ors V. Venue State Government & Ors delivered in January 2022 (unreported)**

which is in pari materia with this case.

The case was unregistered Certificate of Judgment of the Benue State Court where the Court ordered the Benue State government to pay all salaries and allowances of the Judgment Creditors.

In that Judgment this Court held that since the Judgment Creditors were in the employ of the Judgment Debtors their salaries known, their grade levels known, their names known, payment voucher and pay slips prepared by the Judgment Debtors which they used in paying each of the Judgment Creditors the Judgment Debtors cannot say that the salaries which the Court which they have paid over the years and which the Court had ordered them to compute and pay within 30 days from date of the Judgment is not ascertain and not known.

The Judgment Sum is known. So this Court holds. Because these salaries and allowances were known having been paid to the Judgment Creditors long before the time the Judgment Debtors stopped paying same. The amount of the Judgment Sum is very ascertainable too.

From all indication the salaries and allowances of the Judgment creditors are known and the amount is certain

and/or ascertainable. Those monies are due to be paid to the Judgment Creditors. The salaries and allowances were budgeted for, due and payable by The Garnishees to the Judgment Debtors. The amount is certain and can be ascertained from the previous payment voucher and pay slips used by the Judgment Debtors before now. The Judgment Debtors has immediate legal right to the funds. Those funds are attachable. See the old cases of:

**Nusi V. Dosumu**  
**(1937) 13 NLR 173**

**Osibamowo V. Shadeko**  
**(1967) LLR 7**

Since these monies are due and payable they can be attached. That is what Court held as far back as 1929 in the case of:

**The Lagos Stores Limited V. Pedro St. Anna**  
**(1929) 9 NLR 96**

In this case, though these salaries were not calculated and the specific amount stated in the Judgment, they are accepting the bill and can be calculated through example arithmetical or mathematical computation. See the case of:

**Unilag V. Oluwasanmi & Ors**  
**(2017) LPELR - 42305 @ 12 Paragraph F**

Where the court held that:

**"... for enforcement of money Judgment ... the sum of money sought to be recovered must be certain and**

**liquidated ... and is capable of mathematical computation from the Judgment."**

In this case, the salaries and allowances are certain and liquidated. It can easily be computed as the Court had ordered the Judgment Debtors to do. Such computation is possible through the mathematical computation, through the collation of the amount in the Payment Voucher and simple addition of both the salaries in the main and allowances.

This mathematical computation can easily be computed from the Judgment because, the Judgment specified the time from which the calculation of the salaries and allowances will start. That is from 1<sup>st</sup> March, 2017. The same Judgment equally stated that the calculation shall end on the day the payment is made. It even gave the time frame within which the Judgment should be obeyed - 30 days from the date of Judgment.

This Court holds that though the Judgment did not state specific figures and the Judgement Creditors did not claim or state specific figure(s), the Judgment Sum is ascertainable and certain and can be summed up through the simple mathematical computation and calculation of all the said salaries and allowances. This Court granting the Order Nisi based on the figure by the Judgment Creditors his proper. The Judgment Debtors who are challenging the said calculated amount of **Three Hundred and Thirty Six Million, Five Hundred and Thirty Thousand, Eight Hundred and Eighty Three Naira (N336, 530,883.00)** did not obey the Court Order given

that they should come put the figures and pay within 30 days. The said Judgment Debtors did not come up with any figure. They have not Appealed against the figures computed by the Judgment Creditors since they failed to compute the Judgment Sum. They had disobeyed the Order of Court of competent jurisdiction. Yet they have come to seek the Court to make another in their favour. Meanwhile, even the Judgment has not been Appealed. There is no Appeal pending in this Suit. So this Court holds. There is also no Stay of Proceeding or Execution. That is why this Court holds that it cannot Set Aside the Order Nisi or the Garnishee Proceeding. It cannot Stay Proceeding and it cannot Set Aside the registration of the Certificate of the Judgement. The Industrial Court has a right to prepare the Certificate of Judgment which this Court registered. It has right to have issues as stated in S. 254 (C) I, J, K. But on issue of its Judgment, it is bound by the provision of the Sheriff's and Civil Process Act. So this Court holds. National Industrial Court is competent to issue the Certificate of Judgment because it has the same power as a State High Court or FCT High Court.

EXH 1 is proper and the registration of the Judgment is equally proper. So this Court holds. Order Nisi is equally competent.

The case of **FATB V. Ezegbu** relied upon by the Judgment Debtors is not appropriate because there is no challenge of the Judgment that warrants the Judgment Debtors to disobey the Order of Industrial Court. The Judgment Debtors, having disobeyed Order of Court, are not entitled to enjoy the Order of Court. So this Court holds. After all,

obedience to Order of Court is the beginning of judicial wisdom and gateway to enjoy the goodies and judicial privileges offered by the Court.

All in all, this application lacks merit.

This court upholds it's Order Nisi, the Registration of the Judgment and the Order placed on the said Accounts.

This application is a clear ploy to delay the Judgment Creditors the enjoyment of the fruits of their Judgment by the Judgment Debtors. This Court cannot be part of such ploy to frustrate the Judgment Creditors.

This application is therefore DISMISSED.

**This is the Ruling of this Court.**

**Delivered today the \_\_\_\_ day of \_\_\_\_\_ 2021 by me.**

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**K.N. OGBONNAYA**  
**HON. JUDGE**