

**IN THE HIGH COURT OF THE FEDERAL CAPITAL TERRITORY**  
**IN THE ABUJA JUDICIAL DIVISION**  
**HOLDEN AT COURT NO. 4, MAITAMA ON THE**

**27<sup>TH</sup> DAY OF JUNE, 2023**

**BEFORE HIS LORDSHIP: HON. JUSTICE U. P. KEKEMEKE**

**SUIT NO. FCT/HC/CV/732/2012**

**MOTION NO. M/2916/2022**

**COURT CLERKS: JOSEPH ISHAKU BALAMI & ORS.**

**BETWEEN:**

MR. CHINEDU ILOABACHIE ..... CLAIMANT/JUDGMENT CREDITOR

AND

HON. ALIYU GEBI ..... DEFENDANT/JUDGMENT DEBTOR

**AND BETWEEN:**

TREE HOUSE GRILLS & PARKS LTD ..... CLAIMANT/APPLICANT

AND

1. MR. CHINEDU ILOABACHIE ..... JUDGMENT CREDITOR/  
RESPONDENT

2. DEPUTY SHERRIFF, HIGH COURT OF  
THE FEDERAL CAPITAL TERRITORY... RESPONDENT

**RULING**

The application is M/2916/2022 dated 2/03/2023 and filed on the 4<sup>th</sup> of March 2023.

The Claimant/Applicant claims that it is the lawful owner of the 2 pieces of 2-seater Cushion, 2 pieces of one seater and 2 pieces of two visitors seaters and television set attached in execution of the Judgment of this Court dated 16/05/2023 and the Ruling, 4/03/2021.

That the Defendant/Judgment Debtor has no legal or equitable interest in the said items attached.

Whereof the Claimant claims against the Respondents jointly and severally as follows:

- (1) An Order releasing to the Claimant the following items -
  - (a) 2 pieces of Seater Cushion.
  - (b) 2 pieces of one Seater Cushion.
  - (c) 2 pieces of Visitors Seaters.
  - (d) A television set.
  
- (2) An Order against the Deputy Sheriff and Judgment Creditor to pay to the Claimant/Applicant the sum of ₦10 Million jointly and severally.

(3) ₦1 Million as cost of proceeding.

The grounds for the claim are that the 2<sup>nd</sup> Respondent, the Deputy Sheriff on the instigation of the 1<sup>st</sup> Respondent executed a Writ of Execution in favour of the Judgment Creditor against the Judgment Debtor at the Claimant's business premises at No. 66 Ademola Adetokunbo Crescent, Wuse II, Abuja. That the premises does not belong to the Judgment Debtor.

That the 2<sup>nd</sup> Respondent attached and took away the following items from the premises. That the 2<sup>nd</sup> Respondent and Counsel of the Judgment Creditor attached the following items from the premises:

- (1) 2 pieces of 2 Seater Cushion.
- (2) 2 pieces of one Seater Cushion.
- (3) 2 pieces of two Visitors Seaters.
- (4) A television set.

That the Claimant is not the Judgment Debtor or a party to the suit.

In the Affidavit filed in support, the deponent deposes that the Claimant herein is an incorporated company carrying out the business of restaurant in the name of Tree House Grills & Parks Ltd carrying out business at No. 66, Ademola Adetokunbo Crescent, Wuse II, Abuja.

That the directors are stated in Exhibit T1. The Memorandum and Articles of Association is Exhibit T2. Exhibit T3 is Form CAC7 (Particulars of Directors). That the Claimant herein is not the Judgment Debtor neither is his name on the Writ of Attachment.

They stormed the premises of the Claimant without care that customers are therein. The Judgment Debtor is not a director or shareholder in the Claimant. That the company is not indebted to the Judgment Debtor.

The inventory and notice of sale is Exhibit T5. That the attached items belong to the Claimant and not the Judgment Debtor. That the action and conduct of the Respondents caused it much damage to his reputation. That it will cost him time and money to restore back the damages caused its business.

That Claimant herein engaged the services of a lawyer to prosecute this case at the cost of ₦1 Million. The receipt is Exhibit T6. That the Claimant will be prejudiced.

The Claimant/Judgment Creditor on the other hand deposes in his Counter Affidavit that the items attached at the Defendant/Judgment Debtor's place of business did not belong to the Claimant herein.

That Claimant has not provided any proof. That no documents or receipts of ownership were attached to prove ownership.

The issue for determination is whether the goods, chattels in question attached which are the subject of this application belong to the Claimant herein or the Judgment Debtor.

The basic and or elementary principle of law is - He who asserts must prove. The Claimant herein a company which is asserting ownership must prove its entitlement to the goods or chattels hereinbefore mentioned.

I have read the Affidavit of the Claimant herein and the exhibits attached, i.e. Exhibits T1, T2 and T3. They are beautiful documents showing the Certificate of Incorporation, the Objects and Rules guiding the company and the Particulars of Directors with addresses.

The Claimant herein has not shown by evidence that No. 66 Ademola Adetokunbo Crescent, Wuse II, Abuja was its registered place of business. The appropriate form indicating same is not availed the Court.

Moreso there is nothing to show that the chattels/goods belong to the Claimant herein. The exhibits availed the Court do not link the goods to the Claimant herein.

In the circumstance, the claim fails for lack of merit. It is accordingly dismissed.

---

**HON. JUSTICE U. P. KEKEMEKE**  
(HON. JUDGE)  
27/06/2023

Claimant present.

P. F. Joseph, Esq. with O. S. Akintoye, Esq. and Kayode  
Adebayo, Esq. for the Judgment  
Creditor/Respondent.

Mallam Mohammed Shuaib appears for the Applicant.

**COURT:** Ruling delivered.

(Signed)  
**HON. JUDGE**  
27/06/2023