

**IN THE HIGH COURT OF FEDERAL CAPITAL TERRITORY
IN THE ABUJA JUDICIAL DIVISION
HOLDEN AT GWAGWALADA-ABUJA
ON THURSDAY THE 23rd DAY OF NOVEMBER, 2023**

**SUIT NO: FCT/HC/CV/501/2022
MOTION NO: M/11757/2023**

BEFORE HIS LORDSHIP: HON. JUSTICE A. I. AKOBI

BETWEEN:

**TALEVERAS GROUP COMPANIES LIMITED.....JUDGMENT CREDITOR/
APPLICANT**

AND

ABUJA ELECTRICITY DISTRIBUTION COMPANY PLC...JUDGMENT DEBTOR

AND

- 1. ACCESS BANK PLC**
- 2. CITI BANK NIGERIA LIMITED**
- 3. ECO BANK NIGERIA PLC**
- 4. FIDELITY BANK PLC**
- 5. FIRST BANK OF NIGERIA LIMITED**
- 6. FIRST CITY MONUMENT BANK PLC**
- 7. GLOBUS BANK LIMITED**
- 8. GUARANTY TRUST BANK PLC**
- 9. HERITAGE BANKING COMPANY PLC**
- 10. JAIZ BANK PLC**
- 11. KEYSTONE BANK LIMITED**
- 12. PARALLEX BANK LIMITED**
- 13. POLARIS BANK PLC**
- 14. PREMIUM TRUST BANK**

.....GARNISHEES

- 15. PROVIDUS BANK
 - 16. STANBIC IBTC BANK PLC
 - 17. STANDARD CHARTERED BANK OF NIGERIA LTD
 - 18. STERLING BANK PLC
 - 19. SUN TRUST BANK NIGERIA LIMITED
 - 20. TAJ BANK LIMITED
 - 21. TITAN TRUST BANK LIMITED
 - 22. UNION BANK OF NIGERIA
 - 23. UNITED BANK FOR AFRICA PLC
 - 24. WEMA BANK PLC
 - 25. ZENITH BANK PLC
- ...GARNISHEES

R U L I N G

Following the Judgment delivered in favour of the Judgment Creditor/Applicant on the 25/5/2023 and the judgment debtor having paid only a part of the Judgment sum on 20/6/2023 and the remaining part of the Judgment debt unpaid; sequel to that, the Judgment creditor/applicant filed this motion ex-parte for garnishee proceeding in line with the Sheriffs and Civil Process Act and the rules of this court. The motion is brought pursuant to section 83(1) of the Sheriffs and Civil Process Act, and under the inherent Jurisdiction of this Honourable Court. It is dated 7/7/2023 and filed the 10/7/2023. Orders sought are:

1. A Garnishee Order Nisi attaching the funds of the judgment debtor in the custody of the Garnishees Bank in the sum of N11,242,236.78 (Eleven Million, Two Hundred and Forty-Two Thousand, Two Hundred and Thirty-Six Naira, Seventy-Eight Kobo) being the outstanding/unpaid judgment sum pursuant to the Judgment of this Honourable Court entered on 25th May, 2023 in Suit No. FCT/HC/CV/501/2022.

2. A Garnishee Order Nisi directing the Garnishees to show cause why the Order Nisi should not be made absolute in satisfaction of the Judgment debt.
3. The sum of N1, 500,000.00 (One Million, Five Thousand Naira) as cost of this Garnishee Proceedings.
4. And for such further Order(s) which this Honourable Court deem fit to make in the circumstances.

It is supported by 7 paragraphs affidavit deposed to by MERCY Eje, a litigation Secretary in the law firm of Messrs Buba Partners, Barristers and Solicitors to the judgment creditor/applicant; with one annexure marked Exhibit A (judgment delivered on the 25/05/2023). Also filed in support of the application is a written address wherein a sole issue is formulated for the determination of the court thus:

“Whether this Honourable Court can grant this application”?

The learned counsel to the Judgment creditor/applicant Ibrahim A. Buba Esq, in arguing the issue relied on section 83(1) of the Sheriffs and Civil Process Act 2004 and submitted that the Judgment creditor/applicant placed sufficient material before the court for the exercise of its discretion in their favour. Cited **Oceanic Bank Plc v. Oladepo (2013)8 WRN 157; Nigerian Maritime and Safety Administration v. Odey (2012)53 WRN 108; UBA v. Ossia & Ors (2022)All FWLR (PT. 1139).**

The counsel based on the above judicial authorities submitted and rightly too that Garnishee proceedings are separate and distinct proceedings aimed at enabling a successful litigant recover monetary judgment from a third party who is either indebted to the judgment or has custody of the judgment debtors money. Cited **Skye Bank v. Colombara & Anor (2014)2 BFLR 177: 2016)5 NWLR (PT. 1453) 538.**

In the instant case, the judgment creditor/applicant adduced in several paragraphs of the affidavit in support of its application that judgment debtor/respondent in the amount spelt out above and still remains unpaid, hence, this application for an order nisi for interim attachment of the judgment debt in the custody of the Garnishees is in line with the Sheriff and Civil Process Act and the rules of this court. However, upon going through the case file, found that the judgment debtor/respondent filed a notice of appeal on the 19/06/2023 against the judgment of the court delivered on the 25/05/2023. They also filed a motion for stay of execution of the judgment long before the ex parte application for garnishee order was filed and heard. The record shows that the ex parte application for order nisi was filed on the 10/07/2023 while the application for stay of execution of the judgment was filed on the 19/06/2023, long pending before the judgment creditor filed his ex parte application. The record of the court also show that the motion on notice for stay of execution was served on the respondent on 21/06/2023.

If my attention was drawn to the pending motion for stay of execution of the judgment, obviously, the court would have attended to that motion before considering the application for order of interim attachment. The counsel to the judgment creditor/applicant as pointed out above was served with the motion for stay but failed to disclose that fact before the court. It will not be logical and will occasion miscarriage of justice for a court to make an order for interim attachment over a judgment that the court is been called to stay without first hearing the application for stay. The said application is alive and pending before the court. I do understand that the counsel to the judgment creditor/applicant do not own it a duty to prosecute the case of the judgment debtor. However, as a minister in the temple of justice he has the responsibility to assist the Court to arrived at a just decision on a matter before it. I therefore condemned in strong terms the attitude

of the counsel to the judgment creditor/applicant for concealing the fact that there is a pending motion for stay of execution.

In view of the above, I hereby stay the ruling of the motion ex parte pending the hearing and determination of the motion on notice for stay of execution or as will otherwise be directed.

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Hon. Justice A. I. Akobi
23/11/2023