

**IN THE HIGH COURT OF THE FEDERAL CAPITAL TERRITORY
IN THE ABUJA JUDICIAL DIVISION**

HOLDEN AT ABUJA

BEFORE HIS LORDSHIP: HON. JUSTICE MUHAMMAD S. IDRIS

COURT: 28

DATE: 7TH MARCH, 2022

FCT/HC/CV/1325/18

BETWEEN:-

MR. BONAVENTURE OBIAJUNWA AKACHI----- -JUDGMENT CREDITOR/APPLICANT

AND

**1. SUPOL IBRAHIM GOTAN
2. THE COMMISSIONER OF POLICE, IMO STATE
3. THE INPECTOR GENERAL OF POLICE** } **JUDGMENT DEBTORS/RESPONDENTS**

AND

NPF MICRO FINANCE BANK-----

GARNISHEE/RESPONDENT

JUDGMENT

The Garnishee has filed an affidavit to show cause of a 5 paragraph affidavit same was filed on the 10th December, 2021 and deposed to by Nafisat Bello the Branch Manager of the Garnishee Bank Counsel to the Judgment Creditor/Applicant relied on all the paragraph of the affidavit to show cause. Counsel further submitted that they have filed a further and better affidavit to show cause same was filed on the 26th January, 2022 deposed to by Nafisat Bello. A Branch Manager of the Garnishee

bank Counsel relied on all the paragraph of the further and better affidavit to show cause. In opposition to our affidavit to show cause filed on the 16th December, 2021. The said counter affidavit was full of speculation and suspicions see paragraph 6,8 and 9 of the said counter affidavit. The said counter affidavit has not disclose whatsoever that the Garnishee Bank maintain an account for the judgment Debtor see order 46 Rule 2 of the rules of this Court.

By the provision of that order paragraph D of the rules. The judgment Creditor/Applicant most provides the Garnishee with account number if any. The counter affidavit filed by the judgment creditor earlier was dated 16th December, 2021 same is full of speculation and suspicions. See paragraph 6,8 of the said counter affidavit. It is not enough to proof that the Garnishee bank maintained account or have in his possession money belonging to the judgment debtor see exhibit G. that is not an admission that the judgment debtor maintained an account with the Garnishee Counsel to the Garnishee urge the court to dismiss the order Nisi made against the Garnishee with cost. Counsel to the Judgment Creditor/Applicant wish to adopt the affidavit in support of the motion ex parte dated 28th September, 2021 he further stated that our counter affidavit in opposition to

Garnishee's affidavit to show cause same is dated 16th December, 2021. Counsel urge the Court to make the order to be made absolute see order 46 rules 2D relied upon by the Garnishee Counsel did not end where he submitted to the Court that he - ended. The statutory provision see section 83 Sheriff and Civil Process Act (SCPA) also did not impose this condition on the judgment creditor. See paragraph 4 and exhibit BG3 emanating from the web-site of the Garnishee see section 124 Evidence Act see ***BABATUNDE VS OGUN STAT COLLEGE OF EDUCATION (2020) INWLR (Pt 1705) 344-362. Also in CBN VS INTER STELLA (2018) (pt 1658) page 2947 NWLR page 350.*** The Garnishee has a duty to disclose to the Court the judgment debtor's statement of account in its custody. See section 167 D of the Evidence Act. Counsel pray that this order be made absolute. O.C. Chukwu refer the Court to paragraph 7 of the Counter affidavit filed by the judgment creditor's Counsel. Same relied on the case of ***C.B. N VS INTER STELLA (supra)*** same also relied on section 167 D Evidence Act. The Applicant's Counsel relied on order 46 Rule 20 of the rules of this Court which make it clear that the name and address of the branch of the bank where the account is domiciled and account number containing fund to be

attached are not mandatory requirements for a Garnishee order Nisi to be made absolute.

I have carefully gone through the further affidavit and the counter affidavit filed by the Applicant in opposition to the Garnishee and the Garnishee affidavit. I equally took into consideration the earlier cases cited by the Applicant Counsel in support of his opposition. The heavy reliance of the application borders on exhibit B93 and B94 of the cases cited by the same. The Garnishee affidavit to show cause particularly paragraph 3 that a search through our data base shows that none of the judgment debtor maintain on account with the Garnishee bank nor does the Garnishee bank have a debt obligation to any of the judgment debtors which could make the Garnishee bank liable for the judgment debt under Garnishee proceedings. So also in paragraph 4 that the acronyms in paragraph 7 of the judgment creditors affidavit are products developed by the Garnishee bank to attract the patronage of police officers and such products are equally available to members of the general public. This paragraph have not been contravened by the Applicant. From the facts and the exhibits attached by the Applicant. I am strongly of the view that exhibit GB3 and Gb4 cannot make this Court to make this order absolute the above two principles cited above

have clearly shown or answer to exhibit GB3 and GB4. This paragraph 4 have not been contravened satisfactorily by the Applicant to my mind the above judicial authorities cited by the Applicant above does not apply in the instant case this is because the issue here are different same relied on ***GTB VS INNONON LTD (2017) 16 NWLR (pt 1591) 181 Q 193 4 paragraphs E-G.***

Establishing that it is the duty of the Garnishee to carry out a search of its record using the name of the judgment debtor to buttress his position, further the Applicant's Counsel also supported the Court with the case of ***CBN VS INTER STELLA COMM. LTD (2018) 7 NWLR (pt 1618) 294 Q 350 paragraphs E-G.*** the Apex Court delineated the restrictive role and legal duty of a Garnishee in a judgment enforcement proceedings as consciously and truthfully appeasing before the Court to disclose the judgment debtors statement of account in its custody. In ***GARBA VS OMOKODIN (2011) 11 NWLR (pt 1269) 145 Q 179 paragraphs D-E.***

The Apex Court held that a Court is entitled to take judicial notice of all process filed in the proceedings. Also in ***RAILWAYS LTD VS MIN FCT (2011) 17 NWLR (pt 1806) 481 Q 495***

paragraph H . The Apex Court took judicial notice of the shady deals agents the federal Capital Development Authority carrying out in Abuja FCT to their self enrichment and aggrandizement. In **ZENITH BANK PLC VS JOHN(015) 7 NWLR (pt 1458) 393 & 424 paragraph F.** The Apex Court has posited that in Garnishee proceedings the administration of justice has no room for the dribbling usually seen in foot ball field a play while a successful party like in this instance where the judgment Creditor who has successfully established the breach of his fundamental human right by the judgment debtor is made to suffer when justice is on his side. The Court does not make an order in recur this is trite. I am not satisfied with the exhibits relied on by the Applicant for that reason i refuse to make this order absolute as applied by the Applicant Counsel. The garnishee is hereby discharged. I also award cost of ₦10,000.00 against the Applicant.

HON. JUSTICE M.S IDRIS
(Presiding Judge)
7/3/2022