

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

**HOLDEN AT APO – ABUJA**

**ON, 20<sup>TH</sup> DAY OF OCTOBER, 2022.**

**BEFORE HIS LORDSHIP:- HON. JUSTICE A. O. OTALUKA.**

**SUIT NO.:-FCT/HC/CV/11891/2020**  
**MOTION NO.:-FCT/HC/M/9072/2022**

**BETWEEN:**

**BLAISE CHIGOZIE ODIGBO:..JUDGMENT CREDITOR/RESPONDENT**

**AND**

**1. ECONOMIC AND FINANCIAL  
CRIMES COMMISSION**  
**2. MR. CHRIS ODOFIN**  
**3. CLEVER HOME LIMITED** } **....JUDGMENT DEBTORS**

**AND**

**1. CENTRAL BANK OF NIGERIA**  
**2. ZENITH BANK PLC**  
**3. STANDARD CHARTERED BANK** } **....GARNISHEES**  
**4.WEMA BANK PLC**

NnaemekaOguaji for Judgment Creditor.  
Dr. Ike Frank Chude for the 1<sup>st</sup>Garnishee.  
Joshua Ezebiatu for the 2<sup>nd</sup> Garnishee.  
OluwaseyiOgunduro for the 3<sup>rd</sup> Garnishee.  
Isibakpoma Lucy Igewere for the 4<sup>th</sup> Garnishee.

**RULING.**

Following the service on the 1<sup>st</sup> Garnishee/Applicant, with a Garnishee Order Nisi made by this Court, the 1<sup>st</sup> Garnishee/Applicant filed this Notice of Preliminary Objection, praying the Court for the following:

- a. An order of this honourable Court, setting aside the Order Nisi of this Court, made on the 14<sup>th</sup> day of February, 2022.
- b. And order of this honourable Court dismissing the entire Garnishee proceedings for want of jurisdiction.
- c. An order discharging the 1<sup>st</sup> Garnishee/Applicant (Central Bank of Nigeria) of the Order Nisi issued against it on the 14<sup>th</sup> day of February, 2022.
- d. And for such further Order(s) as this honourable Court may deem fit to make in the circumstance.

In its affidavit in support of the Notice of Preliminary objection deposed to by one YahayaHaliduSayuti, the Applciant averred that it is an agency of the Federal Government, and a public officer, and that to attach monies in its custody, the consent of the honourable Attorney General of the Federation must first be sought and obtained before instituting the proceedings.

The Applicant averred that the consent of the honourable Attorney General of the Federation was not sought and obtained prior to the commencement of this garnishee proceedings, and that this Court lacks the jurisdiction to entertain this proceeding.

Learned 1<sup>st</sup> Garnishee/Applicant's counsel, Dr. Frank Ike Chude, in his written address in support of the notice of preliminary objection, raised two issues for determination, namely;

1. Whether this honourable Court was vested with the requisite jurisdiction when it made the Order Nisi and/or whether a Judgment Creditor who chooses to recover a judgment against the Applicant by means of Garnishee proceedings, must obtain the consent of the Attorney General of the Federation before commencing the proceedings?

2. Whether the High Court of Justice, Abuja (a High Court) had jurisdiction to entertain Garnishee proceedings against the 1<sup>st</sup> Garnishee (Central Bank of Nigeria)?

Proffering arguments on issue one, learned counsel contended that in making the Order Nisi, this Court did not have the requisite jurisdiction to do so.

He referred to Section 84 of the Sheriffs and Civil Process Act as setting out in extenso, the condition precedent to proceeding by way of garnishee proceedings against the money of a Judgment Debtor, in the custody or control of a public officer, in satisfaction of a judgment debt.

Relying on **Umanah v. Attah (2006) 17 NWLR (Pt.1009) 503at 534**, he posited that one of the important condition for the exercise of the Court's jurisdiction over a matter, is that the matter comes before it, instituted by the due process of law, and upon fulfilment of any condition precedent to the exercise of jurisdiction.

He further referred to **Maitumbi v. Baraya (2017)2 NWLR (Pt.1550)347 at 390.**

Placing further reliance on **Central Bank of Nigeria v. Alhaji Mohammed Kakuri (2016) LPELR-41468(CA), Central Bank of Nigeria v. Maiyini Century Company Ltd &Anor (2017)LPELR-43024**, inter alia, he submitted that the Central Bank of Nigeria is a public officer and that the consent of the Attorney General of the Federation, is a prerequisite condition for commencing garnishee proceedings against it.

He contended to the effect that the failure to obtain the consent of the Attorney General of the Federation in this case, robbed the Court of the jurisdiction to entertain the case and that the Order Nisi made therein, is thus, a nullity.

On issue two, learned counsel relied on **Central Bank of Nigeria v. Igbadoo & 2 Ors (unreported) Appeal No. CA/187/2017** and **Okowuosa v. Gomwalk (2017) 9 NWLR (Pt.15) 259 at 276** to submit that only a Court with competence to entertain a suit by the Judgment Debtor against the garnishee in respect of a debt, can assume jurisdiction over the garnishee matter.

He argued, relying on Section 251(1)(d) of the 1999 Constitution (as amended), that this Court being a (state) High Court, does not have the jurisdiction to entertain this proceedings against the Applicant.

He referred to **Central Bank of Nigeria v. Kakuri (2016)LPELR-41468(CA); Central Bank of Nigeria v. James Ejembi Okefe (2015)LPELR-24825(CA).**

He contended that it does not make any difference that the Judgment giving rise to the garnishee proceedings was given by this Court as garnishee proceedings are distinct and separate (sui generis) from the judgment from which the proceedings stem from.

In opposition to the Notice of Preliminary Objection, the Judgment Creditor/Respondent filed a 3 paragraphs counter affidavit deposed to by one Abigail Ime.

The Judgment Creditor/Respondent averred that the 1<sup>st</sup> Garnishee is not a public officer; that the consent of the Attorney General is not required to institute Garnishee proceedings against the 1<sup>st</sup> Garnishee/applicant; and that this Court has jurisdiction to entertain garnishee proceedings against the Applicant.

In his written address in support of the counter affidavit, learned Judgment Creditor/Respondent's counsel, NnaemekaOguaju, Esq, raised a sole issue for determination, to wit;

***“Whether the consent of the Attorney General is required before commencing Garnishee proceeding against Central Bank of Nigeria in line with provision of Section 84 of Sheriff and Civil Process Act?”***

Arguing the issue so raised, learned counsel contended that the learned Applicant's counsel quoted Section 84 of the Sheriff and Civil Process Act out of context.

He argued that a combined reading of Section 84(3) of the Sheriff and Civil Process Act and Section 1(1) & (2) of the Central Bank of Nigeria Act, will show that the Central Bank of Nigeria, is not a public office and thus, does not require consent of the Attorney General of either a State or the Federation, before the Order Nisi can be made in a garnishee proceeding.

He contended to the effect that the operative words in Section 84(3) of the Sheriff and Civil Process Act, to wit; 'Public Officer'; 'who holds a public office in the public service', do not apply to the Applicant, and therefore, that the Attorney General's consent is not required to commence a garnishee proceeding against the Applicant.

He referred to **C.B.N. v. InterstellaComms Ltd (2018) 7 NWLR (Pt. 1618)294 SC.**

Relying on **Seamarine Int'l v. Ayetoro Bay Agency (2016) 4 NWLR (Pt. 1502) 313,** learned counsel submitted that reliefs sought determine the jurisdiction of the Court.

He argued that this Court has jurisdiction to commence garnishee proceedings against Central Bank of Nigeria as a

form of enforcing judgment of the Court as this does not fall under the matters arising from banking, foreign exchange, coinage, legal tender, bills of exchange, letters of credit, promissory note; as encapsulated in Section 251 of the Constitution.

He urged the Court to dismiss the Notice of Preliminary Objection and make the Garnishee Order absolute against the applicant.

Two cardinal questions were raised by the 1<sup>st</sup> Garnishee/Applicant in this Notice of Preliminary Objection, and these are, concisely stated;

- 1) Whether the consent of the Attorney General of the federation is a prerequisite for the commencement of the Garnishee proceeding in this case?
- 2) Whether this Court in fact, has the jurisdiction to entertain a Garnishee proceeding involving the 1<sup>st</sup> Garnishee/Applicant?

To these two questions I will briefly and directly address my mind in the determination of this application.

The two questions both bother on the question of jurisdiction, which is the life wire of judicial adjudication.

It is a settled position of the law that jurisdiction is so fundamental that any action or proceeding undertaken by the Court without requisite jurisdiction, will be a nullity no matter how well conducted. See **Akere&Ors v. The Governor of Oyo State &Ors (2012) LPELR-7806(SC).**

In the case of **CBN v. Nwanyanwu&Ors Enterprises Nigeria Ltd (2014)LPELR-22745(CA),** after considering Section 84(1)&(3) of the Sheriff and Civil Process Act, Section 318 of

the Constitution of the Federal Republic of Nigeria, 1999 (as Amended), and Section 19 of the Fifth Schedule to the Constitution, in relation to failure to obtain consent of the Attorney General in Garnishee proceedings, the Court of Appeal, per Pemu, JCA, stated inter alia;

***“There is nothing to show that the Respondent sought and obtained leave of the Federal Attorney General before instituting garnishee proceedings against the Appellant who is clearly a public service body manned by a public servant.***

***That makes the proceedings a nullity in law....***

***Failure to obtain the consent of the Federal Attorney-General makes the whole Garnishee proceedings a nullity and I so hold.”***

The Appellate Court in the above case, as in a plethora of other decided cases, made it unequivocally clear, that the consent of the Attorney General is mandatory and a pre-requisite for instituting a garnishee proceeding against a federal Government agency, particularly the 1<sup>st</sup> Garnishee/Applicant herein.

In considering whether the High Court of State or the High Court of the Federal Capital Territory, Abuja, has jurisdiction over a garnishee proceeding where one of the parties to such proceeding involve the Federal Government or any of its agencies, the Court of Appeal, per Mustapha, JCA, held, in **CBN v. Okeb Nigeria Ltd &Ors (2014)LPELR23162(CA)**, that:

***“.... A careful reading of Section 251(1), (p), (q), (r) and (s) of the 1999 Constitution and the proviso thereto, reveal that the intention of the law makers is to vest exclusive jurisdiction in the Federal High Court in***

***matters in which the Federal Government or any of its agencies is a party. A State High Court or the High Court of the Federal Capital Territory, Abuja has no jurisdiction in such matters notwithstanding the nature of the claim in the action.***

***It does not matter also, in the considered opinion of this Court, that garnishee proceedings by their nature, deal with the enforcement of judgments already obtained, and even if the High Court of the Federal Capital Territory is a creation of the Federal Government, as argued by the learned S.A.N. for the respondent, the argument still falls flat on its face, because that does not by any stretch of imagination mean that the High Court of the Federal Capital Territory is a Federal High Court.”***

The above decision of the Court is very clear on the point that in a garnishee proceeding where the Federal Government or any of its agencies, is a party, the Federal High Court, to the exclusion of other Courts, has original jurisdiction. It is crystal clear that the Central Bank of Nigeria is an agent of the Federal Republic of Nigeria and therefore this Court cannot exercise jurisdiction over it in garnishee proceedings. It is the doctrine of stare decisis, this Court is bound by the above decisions of the Appellate Court.

It therefore follows in the light of the above, that this Court lacks the jurisdiction to entertain this garnishee proceeding in respect of the 1<sup>st</sup> Garnishee/Applicant, being an agency of the Federal Government.

Accordingly, this application succeeds partly and this Court orders as follows:

- a. The Garnishee Order Nisi made on the 14<sup>th</sup> day of February, 2022 is hereby set aside.
- b. Reliefs 'b' and 'c' are dependent on relief 'a' and are hereby refused.
- c. In respect of relief, for further orders the Motion on Notice M/7968/21 is hereby struck out.

**HON. JUSTICE A. O. OTALUKA**  
**20/10/2022.**