

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

HOLDEN AT: COURT 9 JABI – ABUJA
DATE: 2ND OF MARCH, 2021
BEFORE: HON. JUSTICE M.A. NASIR
SUIT NO: CV/817/14
MOTION NO: M/7725/2019

BETWEEN

SHARON PAULINE OTOWO

----- JUDGMENT CREDITOR/APPLICANT

AND

1. CONSTRUCTII PROACTII LTD
2. ALIYU BALA AHMED
3. ALIYU BALA MARYAM
4. ALIYU BALA ZAINAB
5. MINANTA ENTERPRISES LIMITED
6. SULEIMAN BABAYO
7. SULEIMAN ABUBAKAR

} JUDGMENT DEBTORS

AND

1. ACCESS BANK PLC
2. FIRST CITY MONUMENT BANK PLC

]----- GARNISHEES

RULING

By the garnishee order nisi granted by this Court on the 18/10/2019 the garnishees Access Bank Plc and

FCMB were directed to show cause why the garnishee order nisi should not be made absolute.

The 1st garnishee Access Bank Plc filed an affidavit to show cause indicating that the 1st, 3rd, 4th and 5th judgment debtors maintained accounts with the garnishee. However, it was averred that only the 1st judgment debtor's accounts had some funds. Mr. Alu Esq of counsel to the judgment creditor applied that the garnishee order nisi be made absolute on those accounts, which was granted by the Court.

As regards the 2nd garnishee First City Monument Bank Plc, an affidavit to show cause was filed stating that there was no match for the names of the 4th, 5th and 7th judgment debtors indicating that they do not maintain any account with the 2nd garnishee.

For the 3rd and 6th judgment debtors, the 2nd garnishee requested for further particulars to confirm the names of the 3rd and 6th judgment debtors.

For the 1st judgment debtor, the 2nd garnishee filed an affidavit to show cause stating that the 1st judgment debtor maintained 12 accounts. And for the 2nd judgment debtor, Aliyu Bala Ahmed it was stated that he maintained an account with the 2nd garnishee which had been placed on Post – No – Debit and the Court order attached as Exhibit B.

Upon discharging the 1st garnishee, the matter was adjourned for further hearing to enable the judgment creditor to provide further particulars with respect to the 3rd and 6th judgment debtors to enable the 2nd garnishee respond before the Court. Pursuant to that, the 2nd garnishee filed another affidavit to show cause.

Victor Edem Esq who appeared for the 2nd garnishee submitted that the account of the 2nd judgment debtor had an encumbrance vide Exhibit B attached to the affidavit to show cause filed on the 20/1/2020. By the additional affidavit to show cause filed the 2nd garnishee

deposed to the fact that the 3rd judgment debtor maintained no account with the bank.

This Court has gone through the affidavit to show cause filed by the 2nd garnishee with respect to the funds of the 2nd judgment debtor. Exhibit B attached therein is a Bankers Order with regard to the account of the 2nd judgment debtor Aliyu Bala Ahmed, Account Number 1848713016. The said Bankers Order requested for:

1. Account opening package
2. Statement of account from 1st January, 2011 to date
3. Certificate of identification
4. Place post no debit
5. Deactivate all internet services.

This order was granted by a Magistrate sitting in Wuse FCT on the 7/10/2019. Mr. Dibal for the judgment creditor submitted that the order placing Post No Debit does not stop the 2nd garnishee from disclosing the account details of the 2nd judgment debtor.

There is no doubt that a garnishee proceedings is a means of executing a monetary judgment against a judgment debtor by ordering a third party (the garnishee) to pay money, otherwise owed to the judgment debtor, directly to the judgment creditor. See Fidelity Bank Plc vs. Okwuowulu & anor (2012) LPELR - 8497 (CA). The purpose of garnishee proceedings is to order a third party to pay direct to the judgment creditor the debt due or accruing from him to the judgment debtor or so much as may be sufficient to satisfy the amount of the judgment and cost of the garnishee proceedings. See GTB Plc vs. Innoson Nigeria Ltd (2014) LPELR - 22605 (CA)

A Post-No-Debit Order on the other hand is a directive that restricts a bank customer from withdrawing funds from his bank account. It is simply a block placed on a bank account to stop all transactions where money could go out of the account.

It is true that the affidavit to show cause filed by the 2nd garnishee did not contain the account details or

statement of account of the 2nd judgment debtor. It would have been neater/tidier if the 2nd garnishee had attached the said account statement. However, since the Post–No–Debit order has a restriction regarding withdrawals, it will be superfluous in my view to insist on the production of the 2nd judgment debtors statement of account as the end result will certainly be the same. For that reason, I will have no hesitation in discharging the 2nd garnishee as per the Post–No–Debit order on record.

This is moreso as the 2nd garnishee has disclosed that 3rd – 7th judgment debtors all do not maintain an account with the garnishee. In the circumstance, the 2nd garnishee is hereby discharged from the garnishee proceedings.

Signed
Honourable Judge

Appearances:

U.A. Dibal Esq – for the judgment creditor, with him J.I.

Burkungus

Victor Edem Esq – for the 2nd garnishee

Absent and not represented