

**IN THE HIGH COURT OF THE FEDERAL CAPITAL TERRITORY
IN THE ABUJA JUDICIAL DIVISION
HOLDEN AT GARKI, ABUJA - FCT**

**CLERK: CHARITY ONUZULIKE
COURT NO. 9**

**SUIT NO: FCT/HC/BW/CV/206/2021
MOTION NO: M/1471/2024
DATE: 14/10/2024**

BETWEEN:

YEMATHE INTEGRATED SERVICES LTD.....CLAIMANT

AND

BWARI AREA COUNCIL.....DEFENDANT

RULING

(DELIVERED BY HON. JUSTICE SULEIMAN B. BELGORE)

This Motion on Notice M/1471/2024 prayed for the following twin reliefs:

- (a) Setting aside the Judgment of this Court entered 15/3/2023.
- (b) Setting aside the order *nisi* of 8/5/2024.

In support is a 9-paragraph affidavit deposed to by Amina Idris with Exhibits JD1 – JD3. There is also a written address.

Learned Counsel to the Judgment Debtor/Applicant – Mr. K. M. Nomeh moved the application *brevi manu* a few minutes ago. He urged me to grant the application.

In opposition, the Judgment Creditor/Respondent's Counsel filed a 21-paragraph affidavits deposed to by one Bright Efosa. They also filed a written address. Learned Counsel to the Judgment Creditor/Respondent adopted the written address and urged me to refused the applicant.

I have considered this application critically. The application have prayed, as I said before, for two prayers. And the Respondents have equally opposed the grants of all the prayers.

It seems to me, upon deep reflection and advertence to the record of this Court that both parties have merit in their respective positions.

One, the judgment of this Court pursuant to a matter under the Undefended List is a judgment on it's merit. It can only be set aside on appeal and not by this Court. There are legions of authorities to this effect.

But what of the order nisi? The order nisi was granted based on the judgment of this Court. Whereas the judgment of this Court was to the tune of **N4.449 million naira**, the order nisi granted was in excess of that amount. That is clearly beyond the debt profile as per the judgment of this Court. To that extent, I find merit in the argument that it is liable to be set aside and I so do.

In clarity, the order nisi made on 8/5/2024 is hereby set aside.

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S. B. Belgore

(Judge) 14/10/2024