

THE HIGH COURT OF THE FEDERAL CAPITAL TERRITORY  
IN THE GWAGWALADA JUDICIAL DIVISION  
HOLDEN AT COURT NO. 13 GWAGWALADA  
BEFORE HIS LORDSHIP: HON JUSTICE A. S. ADEPOJU  
ON THIS 26<sup>TH</sup> DAY OF MARCH 2024

FCT/HC/M/12511/2012  
MOTION: M/9266/2019

BETWEEN

OMOBUKOLA SEUN -----JUDGEMENT CREDITOR/RESPONDENT

AND

1. INSPECTOR GENERAL OF POLICE  
2. COMMISIONER OF POLICE FCT  
3. OFFICER IN CHARGE (APO  
4. LEGISLATIVE POLICE OUTPOST)  
5. OFFICER IN CHARGE (SPECIAL  
ARMED ROBBERY SQUAD

}-----JUDGEMENT DEBTORS

AND

CENTRAL BANK OF NIGERIA -----APPLICANT

*S. M. UTUONGO for the Judgement Creditor/Respondent*

*V. E. EZEIKE appears with E. C. CHUKWU for the Garnishee/Applicant.*

**RULING**

The Garnishee applicants filed a notice of preliminary objection on May 25<sup>th</sup> 2022, seeking for an order dismissing and or striking out of the Garnishee proceedings in limine on the grounds that this honorable court lacks jurisdiction to issue the Garnishee order nisi dated 15<sup>th</sup> March, 2022.

And for such further order or other orders this honorable court may deem fit to make in the circumstances of this case.

The grounds for the objection are:

1. That by virtue of Section 251(1)(d) of the 1999 Constitution of the Federal Republic of Nigeria and Order VIII Rule 2 of the Judgement Enforcement Rules, the Federal High Court shall to the exclusion of all other courts exercise jurisdiction in civil cases and matters connected with or pertaining to bankers, banks and other financial institution including any action by or against the Central Bank of Nigeria arising from banking, foreign exchange, coinage, legal tender, bill of exchange, letters of credit, promissory note and other fiscal measures.
2. That by virtue of Section 84 of the Sheriffs and Civil Processes Act Cap 56, the Revised Edition Laws of the Federation of Nigeria 2004 where money liable to be attached by garnishee proceeding is in the custody or control of a public officer in his official capacity the order nisi shall not be made unless consent to such attachment is first obtained from the appropriate officer (in this instance the Attorney General of the Federation).
3. Consent of the Attorney General of the Federation was not first sought and obtained before the application for a garnishee order was made by the Judgement Creditor.

By an ex parte application, the judgement creditor sought an order of the court to attach the sum of **N500,000 (Five Hundred Thousand Naira)** belonging to the Judgement debtor in the custody of the bank in

satisfaction of the judgement debt wherein judgement was delivered in Suite No. FCT/HC/M/12511/2012 in favor of the applicant on the 18<sup>th</sup> February,2013. And by the order delivered on the 15th March, 2022, the Bank was to show cause why it should not hand over to the Judgement Creditor the aforesaid sum of money. The aforementioned orders affect the Garnishee, hence the preliminary objection.

In arguing the primary objection, the Garnishee submitted two issues for the determination by this court:

- 1. One, whether the court, being a High Court of the Federal Capital Territory was clothed with jurisdiction to make the order nisi dated 15th March, 2022 against the Garnishee, as it did in the Garnishee proceeding.*
- 2. Whether the Honorable Court was clothed with jurisdiction to make the order nisi dated 15<sup>th</sup> March, 2022 against the Garnishee as it did in the Garnishee proceeding when the Judgement Creditor failed to comply with the condition precedent viz-a-viz obtaining the consent of the Attorney General of the Federation.*

With respect to issue No. 1 the Learned Counsel for the Garnishee submitted on the established principle of law that any objection to the jurisdiction of the Court is a threshold issue as decided in plethora of judicial authorities. And that the proceeding of a court without jurisdiction no matter how well conducted amounts to nothing. Cases cited in the address are; **MAGAJI V MATORI (2000) 8 NWLR (PT. 670) 722 – PER KARIBE WHYTE JSC, AT PAGE 734 PAR B-C**, where the Court held:

***“It is both a fundamental and elementary principle in the adjudicatory process that where the jurisdiction of the court or the judge is in issue in respect of matter, that, that issue must first be considered and disposed of.”***

Also the cases of **OKWUOSA V GOMWALK (2017) 9 NWLR (PT. 1570) 259 @ 276-27, MADUKOLU V NKEMDILIM (1962) A. N. L. R. (PT. 2) 586 @ 589-590, FRN V NWOSU (2016) 17 NWLR (PT. 1541) 226 @ 272 PAR C-F.**

On the jurisdiction of the High Court of the Federal Capital Territory to entertain the Garnishee proceeding, the Garnishee submitted that the courts with competence to entertain the suit by a Judgement Creditor against the Garnishee in respect of a debt can assume jurisdiction over a

Garnishee proceeding involving the said Garnishee. And that this Court being the High Court of the Federal Capital Territory does not have the jurisdiction over the Central Bank of Nigeria, Garnishee.

Counsel relied on the Court of Appeal decision in **CENTRAL BANK OF NIGERIA V IGBADOO (2017) LPELR 44591 CA** delivered on the 9th of November 2017 per **Joseph Ekanem JCA**. Counsel also referred to the provision of Section 251(1)(d) of the Constitution which provides thus:

***“(1) Notwithstanding anything to the contrary contained this Constitution and in addition to such other jurisdiction as may be conferred upon it by an act of the National Assembly, the Federal High Court shall have an exercise jurisdiction to the exclusion of any other courts in civil cases matters;***

***(d) Connected with or pertaining to banking, banks or other financial institution including any action between one bank and another any action by or against the Central Bank arising from banking, foreign exchange, coinage, legal tender, bills of exchange, letters of credit, promissory notes and other physical measures provided that this paragraph shall not apply to any dispute between an individual customer and his bank in respect of transaction between the individual customer and the bank.”***

Counsel argued that it flows from the above Section that apart from matters of individual customers and their bank, any matter that falls under section 251 (1)(d) of the Constitution falls exclusively under the jurisdiction of the Federal High Court and the jurisdiction of High Court of

a state (the trial court in this matter) as conferred on it in the Constitution is limited to transaction between the bank and its customer and does not extend to those sets-out in section 251(1)(d) of 1999 Constitution of Nigeria as amended. Counsel placed reliance on the case of **CENTRAL BANK OF NIGERIA V KAKURI (2016) LPELR 41468 CA @ PG 25-26** where the Court held:

*“...Garnishee proceedings can be brought in only a court where the judgement debtor can sue the garnishee for the debt. I agree with the Learned Counsel for the appellant that the court where the (2<sup>nd</sup> Judgement debtor) can sue the Central Bank of Nigeria (Garnishee) for the funds in the custody of the appellant attached by the garnishee is the Federal High Court of Nigeria and not Federal Capital Territory High Court... ... And Section 251(1)(d) of the 1999 Constitution vests exclusive jurisdiction over such suits in the Federal High Court of Nigeria.”*

Counsel submitted that based on the above authority, this honorable court has no jurisdiction to entertain the present garnishee proceeding against the Garnishee before it, same being exclusively within the

jurisdiction of the Federal High Court conferred on it by Section 251(1)(d) of the 1999 Constitution as amended.

And he also referred to the case of **CBN V IGBADOO & 2 ORS** where the courts held:

*“...In other words, a court must first and foremost have jurisdiction over the subject matter of the suit before it can exercise any judicial powers over the suit or matter. See SHABAN V SAMBO (2010) 9 NWLR (PT. 1226) PG 353. The implication is that the lower court must first have jurisdiction over the Garnishee in banking or fiscal matter as in this instance before it can exercise its inherent or statutory power to enforce its judgment by Garnishee proceeding against the appellant. It does not possess such jurisdiction and so the idea of it exercising powers in regard to the garnishee proceedings does not arise. No court can act or extend its jurisdiction when none has been conferred... ..”*

On the second issue of whether the Garnishee is a public officer, the Garnishee answered this in the affirmative and relied on Section 84 of the Sheriff and Civil Processes Act, the celebrated case of **IBRAHIM V JSC (1998) 14 NWLR (PT. 584) @ 38 PAR D** where the Supreme Court per **Iguh JSC** defined the term public officer to include ‘public department’. This position he argued was followed in the following cases; **CBN V EKPO & ANOR (2021) LPELR 54147 CA**, **CBN V HYDRO AIR PROPERTY (2014) 16 NWLR (PT. 1434) 482**, **CBN V JAMES EJEMBI OKEFE (2015) LPELR 24845**

**CA, CENTRAL BANK OF NIGERIA V ALHAJI MOHAMED KAKURI (2016)  
LPELR 41468 CA.**

The Counsel argued that from the decisions in the above mentioned cases, the Central Bank of Nigeria being a public officer, the consent of the Attorney General must be sought and obtained before commencement of Garnishee proceedings against it. The attention of the court was also drawn to the recent decision of the court of appeal in **DR. PETER AYODELE FAYOSHI V ECONOMIC AND FINANCIAL CRIMES COMMISSION & ANOR (2018) LPELR 46474 CA** where the Court upheld the decision of the trial court upholding the preliminary objection of the 2<sup>nd</sup> defendant (the garnishee here). The issue raised were resolved in favour of the Central Bank to wit; that the consent of the Attorney General is a condition precedent to instituting any garnishee proceeding against the garnishee herein and any proceeding conducted without the consent of the Attorney General first sought and obtained is a nullity, that Section 84 is not in consonant with Section 287(3) of the 1999 Constitution of the Federal Republic of Nigeria.

The Counsel also argued that the decision of the court in **CBN V NJEMANZE (2015) 4 NWLR (PT. 1449) 276** cannot stand in the face of

**IBRAHIM V JSC Supra** which is an Apex court authority. He submitted that under the doctrine of stare decisis the law is that where there are conflicting decisions of the court of equal jurisdiction, the most recent which is the later prevails and remains the position of the law. He referred to the recent decision of the court of appeal in **UNITY BANK PLC V IGALA CONSTRUCTION LIMITED & ANOR (2020) LPELR 49875 C** and further commended to the court the case of **CBN V EZEObIKA & ORS (2021) LPELR 54147 CA** where the court of appeal held that the Central Bank is a public officer. He urged the court to follow the decision of the Court of Appeal in the two cases and hold that the CBN is a public officer thus the consent of the Attorney General of the Federation must be sought and obtained prior commencement of garnishee proceedings. He urged that the failure of the Judgement Creditor to obtain the prior consent of the Attorney General in the instant case robbed this court of jurisdiction, thus making the order nisi made by this court on 15<sup>th</sup> March, 2022 a nullity.

Let me also put on record that the garnishee equally filed an 11 paragraph affidavit to show cause deposed by one Ozoemena Sandra Raluchi. I observe that the issues averred in the affidavit to show cause

have been argued as points of preliminary objection by the garnishee. The garnishee further maintained that the bank does not maintain accounts in the name of the judgement debtors.

In response the Judgement Creditor filed a 5 paragraphed counter-affidavit. The deponent Akpan Idoreyen, a Law Clerk in the office of the Counsel to the Judgement Creditor. The deponent responded to the averments in paragraph 8(a) of the garnishee affidavit that the Central Bank of Nigeria maintains account for agencies of government of the Federal Republic of Nigeria including the 1<sup>st</sup> and 2<sup>nd</sup> Judgement Debtors. He also referred to two circulars issued by the garnishee on 7/8/2015 and 8/10/2015 that all monies of ministries, departments, agencies of Nigerian Government including the Nigerian Police 1<sup>st</sup> and 2<sup>nd</sup> Judgement Debtors were moved to the custody of the garnishee (letter titled deadline for Transfer of Government Funds to the Treasury Single Account and no exemptions granted to any ministry, department and agencies of government under the Treasury Single Account TSA e-collection) annexed as Exh B & C. And that in response to paragraph 8(b) of the affidavit of the garnishee, it is true that the garnishee maintained account for the 1<sup>st</sup> and 2<sup>nd</sup> judgement debtors. And that the garnishees

has in the TSA accounts listed in the Federal Government Remmita portals the following accounts kept for the 1<sup>st</sup> and 2<sup>nd</sup> judgement debtors;

- i. The Federal Ministry of Police Affairs – AC No. 01240110010.
- ii. Nigerian Police Wudil Account.
- iii. Nigerian Police Medical Service Account.
- iv. Nigerian Police Command FCT Command Account.
- v. Nigerian Police Formation and Command HQTR Annex command Account.
- vi. Police Pension Board Account 012400080010.
- vii. Inspector General of Police Account (over head account).
- viii. Police Force HQTR Account 0020054161043.
- ix. Police Service Commission Account 012400900100.

He also averred that the 1<sup>st</sup> and 2<sup>nd</sup> Judgement debtors have accounts kept in the garnishee, particularly the Consolidated Revenue Fund Account at the Central Bank of Nigeria. It further stated that the judgment creditor had applied to the attorney general of the Federation for consent to garnish the account of the judgment debtors kept in the custody of the garnishee as required by law. The letter dated 27/11/2018 was annexed as Exh D. That the attorney general had refused to give

consent to garnish the money for judgment debtors to be paid, as required by law.

In the attached reply on the points of law, the judgement creditor framed two questions for determination to wit:

- 1. Whether the law does not limit the garnishee applicant's right herein to present this application before this honourable court.*
- 2. Whether the garnishee is a public officer, the contemplation of Section 84 of the Sherriff and Civil Process Act for consent of the Attorney General to be required before the application is brought.*

With respect to issue No. 1 the Learned Counsel to the judgement creditor took a diametrical opposite view with respect to the issue of jurisdiction of this court to entertain the instant application as contended by the garnishee/applicant. That the court does not have jurisdiction over the garnishee. It appears to be that the garnishees contention is harped on the subject matter jurisdiction of the Federal High Court as entrenched in Section 251 (1)(d) of the 1999 Constitution as amended which allows all courts including the Federal Capital Territory High Court, State High Courts and the magistrate courts to exercise jurisdiction in respect of

garnishee proceedings which is one of the methods of the enforcing judgment. The argument of the garnishee, it is that only a court with competence to entertain a suit by judgment debtor against the garnishee in respect of a debt can assume jurisdiction over the garnishee proceeding involving the said garnishee is a misplaced argument. The question to be asked is; what is the source of the debt, or the cause of action that gave rise to the debt sought to be enforced by garnishee proceedings? This argument can only be sustained if the debt arose out of the subject matter listed in section 251(1) (d) of the 1999 Constitution exclusive jurisdiction can then be appropriately conferred on the Federal High Court. In the instant case, the Judgement debt arose out of the breach of the fundamental right pursuant to Section 46 of the 1999 Constitution. The mere fact that the garnishee an agency of the Federal Government is a party to the garnishee proceeding without more does not exclusively confer jurisdiction over the Federal High Court or oust the jurisdiction of the High Court of the Federal Capital Territory.

However, the Counsel to the Judgement Creditor referred copiously to the case of **KRUGGERBRENT & CO NIG LTD V NIGERIAN POLICE FORCE & ANOR FCT/HC/CV/3194/2016, Motion No. M/1753/2016** where a similar

application was argued before my learned brother Hon Justice S. E. Aladetoyinbo Rtd in 2017. Relying in the case of **FMBN V UWADIALE (2004) 10 NWLR (PT. 882) 626 RT 6** the Court held that it would amount to a misconception of the law to hold that by virtue of Section 251(1)(d) of the 1999 Constitution that whenever the Federal Government or any of its agencies is involved in a case, the only court with jurisdiction to determine the case is the Federal High Court. See also the **JOHN SHOY INT'L LTD V FHA (2016) 14 NWLR (PT. 15330 427 @ 436** where the Supreme Court observed as follows:

***“The mere fact that an agency of the Federal Government was a party to the action was not sufficient, without more, to oust the jurisdiction of the High Court of the Federal Capital Territory.”***

The Court per Aladetoyinbo held further;

***“The contention of the Counsel to the Applicant (Central Bank of Nigeria) that by virtue of order VIII. Rule 2 of the Judgement Enforcement Rules, Garnishee matter can only be entertained by a court of law where the judgement debtor (The Nigerian Police) can sue the garnishee for the debt, put differently, it is the court that has***

***jurisdictional competence to entertain a suit by the judgement debtor against the garnishee in respect of the debt that can assume jurisdiction over the garnishee matter and further that since this court cannot assume jurisdiction if the judgement debtors were to sue the central bank of Nigeria in respect of their money in the central bank custody, this court has no jurisdiction.”***

The position taken by counsel to the garnishee is wrong. The Federal High Court was established in 1976 and up till the present moment counsel use to arrogate to the Federal High Court the jurisdiction it never had despite the numerous found decisions by the Supreme Court on jurisdictional issues of Federal High Court. Judgement Enforcement Rules cannot be a source of jurisdiction to the Federal High Court or the High Court of the Federal Capital Territory. See **ONUORAH V K. R. P. C. (2003) 6 NWLR (PT. 921) 393 SC**. Where the Supreme Court observed as follows:

***“It is not the rules of court that vest jurisdiction in a court, rather, it is the statute creating the court that vest jurisdiction in a court. FCT High Court has jurisdiction if the judgement debtors were to sue the garnishee in respect of their money in the garnishee custody because simple recovery of debt involving Federal Government or any of its***

*agencies is not within the provisions of Section 251(1) of the Constitution of the Federal Republic of Nigeria. See JOHN SHOY INT'L LTD V FHA (2016) 14 NWLR (PT. 1533) 427 @ 433 where the Supreme Court held as follows:*

*'However, it cannot reasonable be the intention of the framers of the constitution as far as Section 251 of the 1999 Constitution is concerned that the High Court of the Federal Capital Territory does not have jurisdiction in respect of simple debt involving the Federal Government or any of its agencies. In the instant case, the appellant's claim and the affidavit in support which gave details of the transaction revealed that the subject matter was purely a debt recovery.'*

*The Supreme Court went further to state at page 436 of the same report as follows:*

*'A case of simple contract does not fall within the specific items under Section 251(1) (a) to (s) of the 1999 Constitution where the Federal High Court has exclusive jurisdiction. In the instant case the High Court of FCT had jurisdiction to try the case being one simple contract.'"*

I am persuaded by the above authority which is glaringly on all fours with the contended issues in the garnishee proceedings before this court. The Case of the **CENTRAL BANK OF NIGERIA V IGBADOO SUPRA AND CBN V KAKURI Supra** are authorities for what they decided and not all fours with the issue at hand. The intention of the CBN that it is only the Federal High Court that has jurisdiction over enforcement of judgement vide garnishee proceeding where it is a party has been laid to rest by the recent decision of the Court of appeal in the case of **CBN V. ACCESS BANK & ORS (2022) LPELR 57017 CA** - Per **Owoade JCA**, where the court held:

*"It is also settled that the jurisdiction of the Federal High Court is circumscribed by Section 251(1)(d) of the Constitution of the Federal Republic of Nigeria 1999 (as amended) and it provides the subject matter over which the Federal High Court can exercise jurisdiction. The Constitution also used the word "NOT WITHSTANDING to circumscribe the jurisdiction. In considering Section 251(1)(d) of the Constitution, both the subject matter and the parties are important. The provision is so clear, it is plain, and its applicability to the situation at hand is to say the least inadequate. This is so because whichever way one looks at jurisdiction, garnishee proceedings though clearly a means of enforcement of judgments, cannot be properly termed as substantive civil or criminal suit covered by the provisions of Section 251(1) of the*

*Constitution, and in any event, as rightly pointed out, the Appellant was not even a party in Suit No. KDH/KAD/473/2009 before the trial Court, which delivered the judgment now sought to be enforced. The Appellant only became a party for the purpose of the garnishee proceedings after the 1<sup>st</sup> Respondent sought to enforce the judgment of the Court. Also, the issues at the trial Court did not have related matters of banking. or...connected with or pertaining to banking..." within the meaning and purport of Section 251(1)(d) of the Constitution as it relates to the Appellant. In the circumstances therefore, this Court is of the firm view that the High Court of Kaduna State had the jurisdiction to entertain the matter of the garnishee proceeding as it did on this score. It also is clear from reading the provisions of Order VIII Rules 2, 3 and 9 of the Judgment (Enforcement) Rules and Section 7(1)(a)(b) and 8 of the Federal High Court Act, that they are procedural in nature and not capable of conferring the Court with jurisdiction. It only laid down the procedure to be followed to enforce the judgment of Court by way of garnishee proceedings. The role of a garnishee in any garnishee proceeding is delimited. It is not envisaged that after the Judgment creditor has gone through the rigors of establishing his rights through*

***the legal system, that the garnishee, who is asked to surrender the judgment debtor's money in its possession should engage the judgment creditor in another bout of legal battle.”***

See also the case of **CBN V EZEANYA & ORS (2022) LPELR 57598 CA** where the court of appeal held:

***“Garnishee proceeding is an aspect of enforcement of judgement under Section 287 (3) of the Constitution of the Federal Republic of Nigeria which states (d) the decision of the Federal High Court a High Court and all other Courts established by this constitution shall be enforced in any part of the federation by all authority and persons and by other courts of law respectively.***

***Arising from this background, it sounds preposterous to argue that the state High Court has no jurisdiction to adjudicate over garnishee proceeding citing Section 251 (1) (d) of the Constitution which has no bearing or relevance to enforcement of judgement or garnishee proceeding. It need be said that the garnishee proceeding is an enforcement of judgement of court procedure provided by the Judgement Enforcement Rules of the Sherriff and Civil Process Act and***

*the jurisdiction of all courts to enforce judgement is provided by Section 287 of the Constitution.*

*A court that has the jurisdiction to deliver a judgement involving debt has the corresponding jurisdiction to enforce that judgement by garnishee proceeding in view of Section 287 of the 1999 Constitution. A garnishee proceeding or attachment of debt is a post-judgement proceeding and not an originating suit. It is governed by Section 287 of the Constitution. In conclusion this court holds that the lower court has jurisdiction in respect of the garnishee proceeding and to grant order absolute against the appellant in respect of the judgement of the 2<sup>nd</sup> – 4<sup>th</sup> respondents” – Per Bola JCA (PP 19-20) Par D-F.*

In conclusion I endorse the submission of learned counsel to the Judgement creditor that based on authorities of **CBN V EZEANYA Supra** and **CBN V. ACCESS BANK Supra**, this Court has the jurisdiction to enforce its judgement by the garnishee proceedings/order.

On whether the garnishee is a public officer and the consent of the Attorney General of the Federation must be sought and obtained before the garnishee order is applied for and granted, it is a notorious fact that

most of the decisions of the Court of Appeal held that the Central Bank of Nigeria (garnishee) is a public officer placing their reliance on the definition of a public office in the celebrated case of **IBRAHIM V JSC (1998) 14 NWLR (PT. 584) @ 38 PAR D** where the Supreme Court per **Iguh JSC** defined the term public officer to include 'public department' and therefore an artificial person, a public office or a public body. This decision also followed by the Court of Appeal in the case of **CBN V EKPO & ANOR (2021) LPELR 54147 CA, CBN V HYDRO AIR PTY LTD (2014) 16 NWLR (PT. 1434) 482**. The judgement creditor placed reliance on the case of **CBN V NJEMANZE (2015) (PT 1449) 4 NWLR PG 201-410** and submitted that the applicant need to obtain prior consent of the Attorney General of the Federation before the commencement of garnishee proceedings in line with the provision of Section 84 of the Sheriff and Civil Processes Act because the funds of the judgement debtor are not deemed to be in the custody of the garnishee (Central Bank of Nigeria) in its official capacity as a public officer. He submitted that public officer referred to in Section 84 of Sheriff and Civil Processes Act must be a natural person and occupant of public office and that Court of Appeal held in **CBN V NJEMANZE Supra** that the term public officer relates to holder of the office as reflected only

in Section 318 (1) of the Constitution of the Federal Republic of Nigeria as amended and equally Section 84 of the Sheriff and Civil Processes Act also referred to public officer as a holder, officer/or person holding a public office. In the circumstance, officers of CBN are public officers.

The various definitions of public officer and the CBN as public officer have stemmed out of conflicting decisions of the Court of Appeal. The law is trite that where there conflicting decisions of the Court of Appeal, the later or latest in time should apply and must be followed. See the case of **CBN V ZAKARI (2018) LPELR 44751 CA PER BOLDEY JCA** and as referred to by the garnishee in their written address. The case of **AYODELE FAYOSHI V ECONOMIC AND FINANCIAL CRIMES COMMISSION Supra** and the case of **CBN V. ACCESS BANK Supra** are latest in time and are of firm view that the Central Bank of Nigeria is a public officer thereby requires the consent of the Attorney General of the Federation before the filing, grant and execution of a garnishee order nisi. By the doctrine of stare decisis this court is bound to follow the decision of the superior court of record and the latest decision in time.

I agree with the garnishee that the decision in **CBN V NJEMANZE Supra** is not the latest or current position of the law and hold that the garnishee is

a public officer and prior consent of the Attorney General of the Federation is needed before the institution of the garnishee proceedings. The reason behind this is to avoid embarrassment of him not having prior knowledge of the disbursement of funds earmarked for a particular purpose being diverted in satisfaction of judgement debt which government may not know anything about. The position is sound for proper administration and control of public funds in the custody of the CBN.

The Judgement creditor in the counter-affidavit averred that the consent of the Attorney General had been applied for vide a letter dated 27/11/18. Exhibit C. That the Attorney General of the Federation failed to reply to the said Exhibit C. that failure of the Attorney General to reply to the letter raises an irresistible presumption of implied consent and presumption of admission by conduct or representation.

I am in agreement with the judgement creditor's counsel that the consent of the Attorney General of the Federation was sought before the institution of the Garnishee proceeding as could be gleaned from the content of Exhibit C attached to the Judgement Creditor's Counter-affidavit. The letter dated 27<sup>th</sup> November, 2018 and received by the office

of the Attorney General of the Federation of Nigeria on 29<sup>th</sup> November, 2018. A letter of this nature is expected to be replied to by the office of the Attorney General, the implication of this failure and delay in replying the letter is tantamount to an admission of the contents of the letter by the office of the Attorney General of the Federation. Impliedly, this amounts to tacit consent or approval of the garnishee proceeding by the Attorney General of the Federation. I therefore hold that the garnishee order nisi obtained by the Judgement Creditor against the garnishee is valid and it is hereby made absolute.

**SIGN**

**HON. JUDGE  
26/3/2024**