

IN THE HIGH COURT OF THE FEDERAL CAPITAL TERRITORY
IN THE ABUJA JUDICIAL DIVISION
HOLDEN AT MAITAMA
BEFORE HIS LORDSHIP: HON. JUSTICE H. MU'AZU

SUIT NO: FCT/HC/CV/3094/2017
MOTION NO: FCT/HC/M/4101/2025
DELIVERED ON THE 10/04/2025

BETWEEN:

HERITAGE BANK PLC.....JUDGMENT CREDITOR/RESPONDENT

AND

NIGERIA COMMUNICATIONS SATELLITE
(NIGCOMSAT) MULTIPURPOSE
CO-OPERATIVE SOCIETY LTD) }JUDGMENT DEBTOR/
APPLICANT

AND

1. ZENITH BANK
2. GUARANTY TRUST BANK PLC
3. FIRST CITY MONUMENT BANK }GARNISHEES

PARTIES:

Idowu Oluwa Segun (a Staff of the Judgment Debtor)

RULING

By a Motion on Notice dated 18/03/2025 and filed on the 19/03/2025, the Judgment Debtor/Applicant prays the Court for the following reliefs, to wit:

An Order of this Honourable Court setting aside its Garnishee Order Nisi granted on 25th January, 2025 for been an abuse of the process of this Honourable Court.

1. **An Order** of this Honourable Court dismissing the instant Garnishee initiated by the Judgment Creditor for want of Jurisdiction.

The Application is supported by 10 grounds to wit:

1. By a Motion Ex-parte dated 7th October, 2024, the Judgment Creditor/Respondent moved this Honourable Court to issue a Garnishee Order Nisi for the attachment of the Judgment Debtors/Applicant's funds with the Garnishees.
2. On the 25th January, 2025 this Honourable Court granted on Order Nisi for the attachment of the Judgment Debtors/Applicant's funds with the Garnishees to the tune of **₦551,533.19** (Five Hundred and Fifty –One Million, Five Hundred and Thirty-Three Naira Nineteen Kobo).
3. The Judgment Creditor/Respondent moved this Honourable Court to grant the Garnishee Order based on misrepresentations and Concealment of facts from this Honourable Court.
4. The Garnishee Order Nisi was never served on the Judgment Debtors as required by law.
5. The Judgment sought to be enforced by the Judgment Creditor/Respondent has been appealed by the Judgment Debtor/Applicant since 2018 in two separate Appeals which have been pending before the Court of Appeal Abuja Division

in Appeal Number **CA/A/207/2018** and **CA/A/207/2018**
BETWEEN NIGERIA COMMUNICATION SATELLITE
(NIGCOMSAT) MULTIPURPOSE CO-OPERATIVE
SOCIETY LTD V. HERITAGE BANK PLC.

6. The Judgment Debtor/Applicant has a pending Motion on Notice for stay of execution of the Judgment of this Honourable Court in response to which the Judgment Creditor/Respondent has filed a Counter Affidavit in opposition to the said Motion on Notice pending before the Court of Appeal Abuja Division.
7. The two Appeals and the Motion on Notice for stay of execution of the Judgment filed by the Judgment Debtor/Applicant are still pending before the Court of Appeal and the Judgment Creditor/Respondent is fully aware of these facts, yet concealed it and moved this Honourable Court to grant the Order Nisi.
8. The Judgment Creditor had earlier initiated two separate Garnishee proceedings on the same Judgment pending before this Honourable Court in Kwali and Bwari respectively.
9. The Garnishee proceeding initiated by the Judgment Creditor/Respondent leading to order Nisi is an abuse of Court process.
10. This Court has no Jurisdiction to further entertain this case.

The Applicant filed an affidavit of Mathew Babatunde who deposed that the order Nisi was not served on the Judgment Debtor before the hearing of the matter for Garnishees to show cause. That an Appeal with Appeal No. **CA/A/2017/2018** is pending before the Court of Appeal Abuja Division. That there is a pending Motion for stay of execution before the Court of Appeal. That Counsel for the Judgment Creditor is aware of this facts. That the Order Nisi granted by this Honourable Court was based on misrepresentation. The Applicant attached Notice of Appeal and copy of Motion for stay of execution before the Court of Appeal. But curiously did not attach the time Order Nisi he claimed were granted by the Court in Kwali and Bwari.

In opposition to the Application, the Judgment Creditor/Respondent filed a counter affidavit of Joseph Igbo. It is a Counter affidavit of 19 paragraph with one Exhibit which is enrolled Order of the Court of Appeal in suit No. **CA/ABJ/CV/523/2018** dismissing the Appeal on 31/01/2024. The Application is supported by a written address.

In response, the Judgment Debtor/Applicant filed a further affidavit stating that the Judgment Debtor is not aware of the Order of the Court of Appeal dismissing the Appeal of the Judgment Creditor.

I have carefully considered the processes before the Court. It is not in dispute that, no evidence of previous Order Nisi are before the Court. Therefore the claim of abuse of Court processes fails.

It is also not in dispute that, the Court of Appeal has on the 31/01/2024 dismissed the Appeal the Judgment Debtor is relying upon. The fact that the Judgment Debtor is not aware of it is inconsequential. The copy is a Certified True Copy which this Court can rely upon as the correct position of things.

Accordingly, and without further Ado, it is my finding that the Application to set aside is in mature and hereby dismissed.

We seek Cost.

Court: Cost of ~~₦~~**₦100,000** is granted.

SIGNED:
HON. JUDGE
10/04/2024.

APPEARANCE:

I.E.Uzuegbu, Esq, with Maurine Nwogo (Ms), Esq, for the Judgment Creditor/Respondent

M. A. Isaac, Esq, for the 1st Garnishee