

IN THE HIGH COURT OF THE FEDERAL CAPITAL TERRITORY

IN THE ABUJA JUDICIAL DIVISION

HOLDEN LIFE CAMP-ABUJA

BEFORE HIS LORDSHIP HON. JUSTICE B. M. BASSI

ON FRIDAY 28TH DAY OF MARCH, 2025

MOTION NO: FCT/HC/GAR/38/2025

BETWEEN:

**MICHAEL AMAECHI ANEKE.....JUDGMENT
CREDITOR/
APPLICANT**

AND

**INSPECTOR GENERAL OF POLICE JUDGMENT
DEBTOR/
RESPONDENT**

AND

- 1. CENTRAL BANK OF NIGERIA**
- 2. NIGERIA POLICE FORCE (NPF) GARNISHEES
MICROFINANCE BANK**

RULING

This Ruling concerns the application by the 1st Garnishee, vide a Notice of Preliminary Objection dated and filed on the 7th of March, 2025, praying this Court **to set aside the Garnishee Order Nisi made in this garnishee proceedings.**

The grounds upon which the application is brought are as follows:

1. *The Garnishee Order Nisi issued against the 1st garnishee by the Honourable Court on the 10th day of February, 2025 consequent upon the Judgment Creditor's application was made without jurisdiction.*
2. *The Honourable Court, respectfully cannot exercise jurisdiction over the garnishee by virtue of Section 251 (1)(d) of the 1999 Constitution of the Federal Republic of Nigeria.*
3. *The condition precedent to filing and moving an application for Garnishee have not been met by the Judgment Creditor before filing their application*

Counsel in his written address, raised the following issues for determination:

- a. Whether the Honourable Court possesses the jurisdiction to grant a garnishee order nisi against the 1st garnishee without the judgment creditor first obtaining the consent of the attorney General of the Federation.
- b. Whether the Honourable court being the High Court of the Federal Capital Territory possesses the jurisdiction to entertain any proceedings against the 1st garnishee
- c. Whether the condition precedent to making an application for a garnishee order nisi against the 1st Garnishee has been met by the judgment creditor.

On issue one, learned Counsel submits that before the commencement of a garnishee proceedings against a Federal Public Officer, the consent of the Attorney General of the Federation must be first sought and obtained. Counsel cited Section 84 of the Sheriff and Civil Process Act.

Counsel contends that the 1stGarnishee is a public officer. Counsel referred the Court to the case of **Ibrahim V JSC (1998) 14, NWLR (Pt. 584)1, CBN V Hydro Air PTY (2014) 16 NWLR (Pt 1434) 482, CBN V Access Bank &Ors (2022) LPELR-57017(CA).**

On issue two, Counsel submits that apart from matters of individual customers and their banks, any matter that fall under Section 251 (1) of the Constitution of the Federal Republic of Nigeria 1999 as amended falls exclusively under the jurisdiction of the Federal High Court, and the jurisdiction of the High Court of a State does not extend to those outlined in Section 251(1)(d) of the Constitution of the Federal Republic of Nigeria 1999 as (amended). Counsel cited the case of **Central Bank of Nigeria V Kakuri (2016) LPELR-41468(CA), CBN V Igbadoo&Ors (2017) LPELR-44591(CA).**

On issue three, Counsel submits that the law is that where a condition precedent to the institution of an action has not been met, the Court is enjoined to decline jurisdiction to entertain the suit. Counsel cited the case of **7up Bottling Co. Ltd V Abiola Sons (2001) FWLR (Pt. 70) 1611.**

Learned Counsel finally urged the Court to decline jurisdiction and set aside the Order Nisi made in this suit.

Learned Counsel to the Judgment Creditor/Applicant filed a Reply on Point of Law dated the 12th of March, 2025, in opposition to the Notice of Preliminary Objection.

Counsel, in his address, submits that this Honourable Court possesses the requisite jurisdiction to grant the Order Nisi without the need for the Judgment Creditor to obtain the consent of the Attorney General of the Federation, as the requirement for the consent of the Attorney General of the Federation is no longer the law, same having been struck out of the Sheriffs and Civil Process Act by the Supreme Court. Counsel cited the case of **CBN V**

Ochije&Ors (2025) LPELR-80220(SC)and placed heavy reliance on same.

Counsel further submits that the Central Bank of Nigeria is not a public officer in the context of Section 84 of the Sheriffs and Civil Process Act and the relationship between the 1st Garnishee and the Judgment Debtor,with respect to the latter's funds in the custody of the 1stGarnishee is simply that of a banker customer relationship, which does not require the consent of the Attorney General of the Federation. Counsel cited the case of **CBN V Interstella Communications Ltd &Ors (2017)-43940(SC); Purifying Techniques (Nig.) Ltd V AG of Lagos (2004) LPELR-7424(CA)**.

Counsel further submits that Section 287(3) of the Constitution of the Federal Republic of Nigeria 1999empowers all Courts mentioned therein to enforce judgments of Courts with co-ordinate jurisdiction in any part of the Federation.

Counsel cited the case of **NDIC V O'Silvawax International Ltd (2006) 7 NWLR (Pt. 980)**, andmade reference to the proviso to Section 251 of the Constitution of the Federal Republic of Nigeria 1999 as (amended),submitting that the exclusive jurisdiction of the Federal High Court over matters specified in the proviso is qualified. And the qualification did not expressly prohibit the Federal High Court from entertaining such matters; however, it merely declares that the exclusivity will not operate.

In conclusion, learned Counsel submits that the garnishee proceedings was properly commenced before the Court, having met every condition precedent and urge the Court to resolve all the issues in the affirmative, against the 1stGarnishee and in favour of the Judgment Creditor.

RESOLUTION

I have read and assimilated the application, along with all legal arguments put forward by Counsel for the 1st Garnishee and

Judgment Creditor. I will make reference to the submissions of learned Counsel as the need arises in the course of the ruling.

I have couched two issues for determination which are;

1. **Whether this Court has Jurisdiction to entertain this Garnishee proceedings in view of Section 251 of the Constitution of the Federal Republic of Nigeria 1999 (as altered).**
2. **Whether the 1st Garnishee (CBN) is a public officer within the meaning of Section 84 of the Sherriff and Civil Process Act as to require the consent of the Attorney General of the Federation before garnishee proceedings can be commenced against it.**

Generally, garnishee proceedings is a process of enforcing a money judgment by the attachment or seizure of the debts due or accruing to the Judgment Debtor, which forms part of his property in the hands of a third party for attachment. See **CBN v Canaanland Investment Ltd &Ors (2022) LPELR-58703(CA)**. They are separate and distinct proceedings and are governed by the provisions of the Sherriff and Civil Process Act. See **United Bank for Africa Plc V Ubokulo (2009) LPELR 8923(CA)**.

On the first issue which I have raised for determination, it is clear that the extant application before this court is a garnishee proceeding. The initial suit instituted before the Federal High Court and for which the judgment of the court is sought to be enforced is a fundamental rights enforcement application. By virtue of the provisions of the FREP Act, both the federal high court and the state high courts of the Federation and the FCT have jurisdiction over such matters.

In *Central Bank of Nigeria V Access Bank PLC &Ors (2022) LPELR-57017 (CA)* the Court of Appeal held thus:

“S251(1)(d) CFRN 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 S251(1)(d), both the subject matter and the parties are important... the subject matter/issue before the court presently does not have ‘related matters of banking, or ... connected with or pertaining to banking...’ within the meaning and purport of S251(1)(d) of the Constitution as it relates to the extant judgment creditor.

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 suits covered by the provisions of S251(1)(d).”

In **FBN Plc V Alfa &Anor (2023) LPELR-60431(CA)**, it was held thus:

*“Having gauged the above views, I am inclined to subscribe to the latter view that the State High Court in this case, the FCT High Court, has jurisdiction over garnishee proceedings or attachment of debt in a post-judgment proceedings. Accordingly, with due respect to the submission of learned Counsel for the Appellant, his view that Section 251 of the Constitution of the Federal Republic of Nigeria (as amended) is applicable in this case is highly misconceived when properly read side by side with the provision of Section 287 of the same Constitution. I therefore do not see any cogent reason to divest the FCT High Court with the jurisdiction to entertain a garnishee proceeding over matters that it had jurisdiction to deliver judgment on. In *CBN V. KRUGGERBRENT & CO. (NIG) LTD & ORS (2022) LPELR-57571(CA)*(Pp. 27-30, paras. F), this Court held as:- "garnishee proceedings are generally governed and*

regulated not by the provisions conferring substantive jurisdiction on a Court but by the relevant provisions of the Sheriffs and Civil Process Act, 2004 and 287 of the 1999 Constitution of the Federal Republic of Nigeria (supra). Thus, by virtue of those laws, the Federal High Court, High Courts of the States and the Federal Capital Territory, and all other Courts created by the Constitution have the power to enforce their decisions, and such decisions can also be enforced by Courts of subordinate jurisdiction...'

More importantly, the 1st Garnishee was not even a party in the suit before the trial court which delivered a judgment now sought to be enforced. The Courts have reiterated that the role of a garnishee in any garnishee proceeding is delimited. It is not envisaged that after a judgment creditor has gone through the rigours of establishing his rights (more particularly in a fundamental rights suit as this), that the garnishee who is asked to surrender the judgment debtors' money in its possessions should engage the judgment creditor in another bout of legal battle.

This court is therefore fully clothed with jurisdiction with respect to the extant application and I so hold. Issue 1 is determined in favour of the Judgment Creditor/ Respondent.

As I begin resolution of issue two, it is pertinent to comment on the case of **CBN V Ochiye&Ors (2025) LPELR-80220(SC)**, which the Judgment Creditor relied heavily on in his submission that the requirement for the consent of the Attorney General of the Federation is no longer the law, relying on the dissenting opinion of Hon. Justice **H.M. Ogunwumiju J.S.C.** In the lead judgment delivered, by **Abiru J.S.C** it was held thus:

“The issue of the failure of the Respondent to obtain the consent of the Attorney General of the Federation before commencing the garnishing proceedings was not raised at the trial Court. It was at the Court of Appeal that same was raised for determination

by the Court. The Supreme Court held that the Appellant had no right to raise the issue on appeal for the first time as the appellate jurisdiction of the Court of Appeal under Sections 240, 241 and 242 of the Constitution in respect of appeals against the decisions of the High Court is limited to matters that were raised, canvassed and/or ruled upon by the High Court and also to matters that were properly raised before it. The Court of Appeal therefore had no jurisdiction to entertain same. The Supreme Court held that the Court of Appeal's decision in respect thereof was a nullity. The judgment did not decide on the issue of requirement of the consent of the Attorney General before commencement of a garnishee proceeding."

A dissenting judgment, however powerful, learned and articulate, is not the judgment of the Court and therefore not binding. Citing and relying on it serves no purpose. **Orugbo V Una (2002) 16 NWLR (Pt. 992) 175 at 205; Yusuf & Anor V INEC & Ors (2023) LPELR-61470(CA)**. It is the leading judgment that embodies the decision of the Court.

There are divergent views on the question of whether the CBN is a public officer. The Court of Appeal in **CBN V Njemanze (2014) LPELR-24016(CA)** held in terms of the definition of the term "public Officer" thus:

"The term public officer relates to the holder of the office as reflected only in Section 318(1) of the Constitution as amended. Equally, Section 84 of the Sheriffs and Civil Process Act also referred to a public officer or person holding public office.

In CBN V Mogbo(2022) LPELR-57726)CA), the Court held thus:

"The Central Bank of Nigeria, by virtue of its establishment by an Act of the National Assembly, is part of the Public Service of the Federation... Similarly, this court in CBN V SCSBV(|No1) (2015) 11 NWLR (Pt 1469) 130, has held that the Central Bank

of Nigeria, to the extent of being the Banker to the three tiers of Government of the Federation who hold or has custody of public funds for the three tiers of Government, is necessarily a public Officer, along with the staff or employees of that Organization' Per Williams-Dawodu JCA (Pp11-13,Paras F-A).

Similarly, the Court **per Sirajo JCA(Pp.32-34.paras B-E) in CBN v Ogundezi(2024) LPELR-73343(CA) held thus:**

"... S318 of the 1999 Constitution defines 'public servant of the Federation' to include staff of any statutory corporation established by an act of the National Assembly. There is in fact no doubt that this definition includes officials of the Central Bank of Nigeria. When this provision is examined critically vis-a-vis the provision of section 84 of the sheriffs and civil process Act, it will be seen that funds in the coffers of the Central Bank of Nigeria are actually funds in the custody or under the control of a public officer in his official capacity. This is because the Central Bank of Nigeria is an artificial entity and it is the officials of that entity that control the money or funds in the coffers of the entity."

The combined effect of the provisions and authorities cited is that the CBN is a public officer and I so hold.

Going further,it is expedient to reproduce **Section 84(1) of the Sheriffs and Civil Process Act, Cap S6, LFN 2004** thus:

"Where money liable to be attached by garnishee proceedings is in the custody or under the control of a public officer in his official capacity or in custodia legis, the order nisi shall not be made under the provisions of the last preceding section unless consent to such attachment is first obtained from the appropriate officer in the case of money in the custody or control of a public officer or of the court in the case of money in custodia legis, as the case may be".

Having held that the CBN falls in the category of a public officer, the applicability of Section 84 becomes glaring. The Judgment Creditor/Respondent in his submission cited some authorities such as **CBN V Interstellar communication Ltd (2015)8NWLR (Pt.1462)456** in his contention that the consent of the Attorney General is not necessary. It is important to state that each case is an authority for what it decides. From the Interstellar case, it is clear that certain prequalifying conditions must be met for a case to come under the purview of Section 84 SCPA. The facts are totally different from the present case.

M.B Idris |JCA) as he then was, now JSC in Central Bank of Nigeria v Access Bank PLC and 2 Ors (supra)held thus:

“The import of Section 84 Sheriffs and Civil Process Act is to avoid embarrassment of not knowing that funds earmarked for some purpose have been diverted in satisfaction of a judgment debt which the Government may not know anything about.”

The extant application filed before this court did not show or attach any exhibit to show that the consent of the Attorney General of the Federation had been sought and obtained. The Learned Jurist in **CBN V Access Bank (supra)** stated further thus:

“the provisions of S84 Sherriff and Civil Process Act are intended to protect and safeguard the funds of the government in custody of an officer or any institution, certain conditions must be satisfied before such funds can be applied to satisfy a judgment debt.”

From the decisions above and the doctrine of *stare decisis*, by which the Court is bound, this court finds that the 1st Garnishee (CBN) is a public officer within the meaning of **Section 84 of the Sherriff and Civil Process Act**, therefore the consent of the Attorney General of the Federation is a mandatory requirement before garnishee proceedings can be commenced against it.

The 1st Judgment Creditor/Respondent having not sought and obtained the consent of the Attorney General has not activated this Court's jurisdiction. This issue must be resolved in favour of the Applicant. Any further action is a nullity. Consequently, the garnishee proceedings are hereby struck out and the garnishees accordingly dismissed.

With respect to the 2nd Garnishee NPF Microfinance Bank, he filed a 6 paragraph counter affidavit dated 20th March, 2025 and a further and better affidavit wherein he stated in paragraph 2(a) that there are no accounts that can be traced to the Judgment Debtor.

I have considered the further and better affidavit of the Judgment Creditor which did not provide any further particulars or show that the Judgment Debtor maintains any account with the 2nd Garnishee.

Consequently, the 2nd Garnishee having shown cause is hereby discharged.

This brings this Garnishee proceedings to an end.

BUETNAAN M. BASSI
(HON. JUDGE)

APPEARANCES:

AnayoIlo for the Judgment Creditor/Applicant

K.Y. Magaji for the 1st Garnishee

Ewulu C.O. for the 2nd Garnishee

