

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

**HOLDEN AT MAITAMA – ABUJA**

**BEFORE HIS LORDSHIP: HON. JUSTICE .H. MU’AZU**

**SUIT NO: FCT/HC/M/12605/2024**

**DELIVERED ON THE 15/01/2025**

**BETWEEN:**

**SIMON EBEGIDI.....APPLICANT**

**AND**

- 1. MONIEPOINT MICROFINACE BANK PLC**
  - 2. COMMISSIONER OF POLICE**
- } **RESPONDENTS**

**RULING/JUDGMENT**

The Applicant, a customer to the 1<sup>st</sup> Respondent currently operating a Point of Sale (P.O.S) under the Name and Style of Mike Emma Enterprises with account number **8288104824** alleged that sometime on the 22/04/2024 he wanted doing transaction to a particular customer via P.O.S domiciled account with the 1<sup>st</sup> Respondent only for him to discover that he had no access to the said account.

That upon enquiry, he was informed that an order of court dated 21/04/2024 with motion No. **01/276/2024** from Hon. U.S. Mayana, Area Court Grade 1, Mpape was brought by FCT Police command under CID to place post no debit on his account, on the ground of criminal

investigation, conspiracy, obtaining money under false pretense and intimidation.

The Applicant through his counsel filed this Application and sought for the following:

- 1) *An order of this Hon. Court mandating the 1<sup>st</sup> respondent to remove Lien/PND placed on the Applicant's Mike Emma Enterprises P.O.S account number, 8288104824 based on the court order emanating from Area Court by the 2<sup>nd</sup> respondent and unfreeze same for unrestricted access and operation of the P.O.S account by the Applicant.*
- 2) *An order of this Hon. Court directing the 2<sup>nd</sup> respondent to clear the Applicant of unwarranted allegation of fraud suspected to have committed as a result of operating account with the 1<sup>st</sup> respondent.*

The said Application was supported by an affidavit of 20 paragraphs deposed to by the Applicant himself.

As introduced in the preceding part of this Ruling, the Applicant avers that the said order obtained by the 2<sup>nd</sup> respondent was done without jurisdiction as he was never invited, arrested by the police for any trace of theft or incrimination cases against him through his financial dealings with his P.O.S microfinance bank.

That on 17/09/2024, one Mr. Musa send him a mail linked in copy dated 04/09/2024 from Chisom Okereke fraud desk officer Moniepoint Inc that he should obtain a counter court order for the restriction to be lifted.

The Applicant further avers that he knows as a fact that the Area Court does not have criminal jurisdiction and therefore court should grant his request.

A written address was filed wherein the issue “**whether this Application is meritorious and this Hon. Court should grant same**” was formulated for determination.

Learned counsel argued the above issue citing relevant case law in urging the court to grant the Application in the interest of justice.

I have gone through the Applicant’s Application as aptly captured in the affidavit in support of the motion on notice and the written address therein. It is pertinent to state here that despite the evidence of service of the said process on the defendants, they both failed and or neglected to file their counter to the Applicant’s process.

It is trite that uncontroverted facts need no further proof, as such uncontested facts are regarded as admissions. ***C.O.P. DELTA STATE & ORS VS. NOE (2024) LPELR 62114 (CA).***

The law is well settled that the relationship between a banker and its customer is that of debtor and creditor as well as principal and agent, such that once a customer pay money into his account with the bank, the

bank becomes his debtor, while the customer becomes the creditor to the bank.

A bank is also an agent of its customer who in turn becomes the principal and the bank is thus bound in law and under a duty to carry out the instructions of its customer within the ambit of the law that governs their banker/customer relationship. This duty, I must reiterate is one that carries with it a duty of care and which must therefore, be diligently exercised by the bank since the predominant business of the bank is banking, which, in the main, consists of receipt of monies on deposits on accounts of its customers and the payment of cheques drawn on it as well as the collection of cheques paid in by its customer. ***GTB VS. DIEUDONNE (2017) LPELR 45559 (CA)***.

It is the contention of the Applicant that he is the customer of the 1<sup>st</sup> respondent with account No. **8288104824** and that sometime on the 22/04/2024, he wanted to make transaction in his account but discovered he could not and upon inquiry, he was informed by one Mr. Musa that an order of court was granted by an Upper Area Court, Mpape by Hon. U.S. Mayana placing Post no Debit on his account.

The Applicant further stated that, uptill now, there is no invitation from the police in respect of any crime against him or any arrest.

The 2<sup>nd</sup> respondent who allegedly obtained the said order to place post no debit on the Applicant's account No. **8288104824** domiciled with the

1<sup>st</sup> respondent refused and/or neglected to file any counter affidavit to the case of the Applicant. The implication of this act of the 2<sup>nd</sup> respondent is that they are admitting all that has been said by the Applicant that there is no criminal case against him.

Having placed nothing before the court, I shall therefore grant the prayer sought by the Applicant in its entirety. Accordingly, it is hereby ordered as follows:

- (1) An order of this Hon. Court mandating the 1<sup>st</sup> Respondent to remove Lien/PND placed on the Applicant's Mike Emma Enterprises P.O.S account No. 8288104824 based on the court order emanating from Area Court by the 2<sup>nd</sup> Respondent and unfreeze same for unrestricted access and operation of the P.O.S account by the Applicant is hereby granted.**

The 2<sup>nd</sup> relief is refused and dismissed.

**SIGNED:  
HON. JUDGE  
15/01/2025.**

**Appearance:**

*P. E. Nwokafor, Esq, for the Applicant*