

**VITACHEM (NIG) LTD V. DSM SINOCHEM
PHARMACEUTICALS INDIA PRIVATE LTD**

(2026) LPELR-83052(SC)

**VITACHEM NIGERIA LIMITED v.
DSM SINOCHEM
PHARMACEUTICALS INDIA**

PRIVATE LIMITED

(2026) LPELR-83052(SC)



In The Supreme Court Of Nigeria

On Friday, the 30th day of January, 2026

Suit No: SC.449/2018

Before Their Lordship

JOHN INYANG OKORO	Justice of the Supreme Court
HELEN MORONKEJI OGUNWUMIJU	Justice of the Supreme Court
ADAMU JAURO	Justice of the Supreme Court
OBANDE FESTUS OGBUINYA	Justice of the Supreme Court
ABUBAKAR SADIQ UMAR	Justice of the Supreme Court

Between

VITACHEM NIGERIA LIMITED	APPELLANT(S)
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And

DSM SINOCHEM PHARMACEUTICALS INDIA PRIVATE LIMITED	RESPONDENT(S)
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SUMMARY OF JUDGMENT

INTRODUCTION:

This appeal borders on Garnishee Proceedings.

FACTS:

This is an appeal against the judgment of the Court of Appeal, Lagos Judicial Division delivered on the 27th October, 2017, which dismissed the Appellant's appeal and affirmed the judgment of the High Court of Lagos State given on the 16th April, 2014 in Suit No: ID/ADR/126/2014.

The Respondent got a summary judgment against the Appellant on the 24th November, 2014 from the High Court of Lagos State in Suit No: ID/ADR/126/2014. On the 1st December, 2014, the Respondent filed an ex-parte application for garnishee order nisi before the trial Court while the Appellant also filed an application to set aside the summary judgment on the 5th December, 2014. On the 10th of December, 2014, the Respondent filed a counter-affidavit to the Appellant's application to set aside the summary judgment. The trial Court heard and granted the application for garnishee order nisi on the same day and the matter was adjourned for continuation of garnishee proceedings, particularly the proceedings for hearing of the application to show cause before the garnishee order nisi could be made absolute. The Appellant filed another application to set aside the garnishee order nisi on the 23rd December, 2014 to which the Respondent also filed a counter-affidavit. The Appellant also filed a counter-affidavit to the Respondent's Motion on Notice for garnishees to show cause.

The trial Court, in its bench ruling delivered on the

16th April, 2015, after dismissing the Appellant's applications to set aside the summary judgment, as well as the Appellant's application to set aside the order nisi, proceeded to make the garnishee order nisi absolute. In dismissing the Appellant's applications to set aside the summary judgment and overruling the Appellant's opposition to the garnishee proceedings, the trial Court held that the Appellant did not depose to any fact in its affidavit to support its contention that it was not served the order nisi as required by law which is the basis of its opposition to the garnishee proceedings.

On appeal, the Court of Appeal affirmed the decision of the trial Court. The Appellant who was further aggrieved, brought the present appeal.

ISSUES:

The Court determined the appeal on the following issues:

1. Whether having regards to the processes before the Court and the entire circumstances of the case, the lower Court was right in affirming the trial Court's dismissal of the Appellant's motion on notice dated the 23rd December, 2014 and the Appellant's opposition to the entire garnishee proceedings at the trial Court?
2. Whether the Court of Appeal was right to overlook the failure and/or refusal of the learned trial judge to consider the ground of abuse of Court process (among other grounds) upon which the Appellant's application to set aside the Garnishee Order Nisi at the trial Court was predicated?

DECISION/HELD:

The appeal was held to be unmeritorious and was thus dismissed. The sum of N5,000,000.00 (Five Million Naira) was awarded against the Appellant to the Respondent as cost.

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RATIO DECIDENDI

PRACTICE AND PROCEDURE - PRELIMINARY OBJECTION - Whether a preliminary objection should be considered and determined first before dealing with the merits of an appeal

"The law is trite that where, in a suit or an appeal, a preliminary objection is raised, the Court is bound to hear and determine the preliminary objection before proceeding to the main suit or appeal if necessary. This position is well entrenched in our practice and procedure and also firmly established by numerous decisions of the Courts."

Per **ABUBAKAR SADIQ UMAR ,JSC** (P. 3, paras. E-F)

READ IN CONTEXT

VIEW ANALYTICS

PRACTICE AND PROCEDURE - PRELIMINARY OBJECTION - Nature of a preliminary objection; aim/essence of same

"The principle governing the use of a preliminary objection in appellate proceedings is well-established in Nigerian jurisprudence. A preliminary objection is a procedural tool designed to challenge