

instance, the judgment debtor may need to bring to the attention of the Court that there is a pending appeal in which it had sought and obtained stay of execution of the judgment. The judgment debtor may need to bring to the attention of the Court that terms of settlement on how to liquidate the judgment debt had been agreed or that it had liquidated part of the judgment debt so that the sum ordered by the trial Court in its judgment is no longer the debt due to be paid. These are some examples of what the Court expects the counter affidavit of the judgment debtor to contain whenever it files an affidavit to show cause.

In the same vein, the counter affidavit of the garnishee (Bank) cannot be one to join issues with the judgment creditor in respect of a judgment to which he was not a party. The only information in the counter affidavit required by the Court is that the Bank

cannot satisfy the judgment

debt because the balance in the account of the judgment debtor in its books is less than the amount claimed by the judgment creditor. It may then undertake to release what it has. The garnishee may also swear that the judgment debtor has no account with it and cannot give up what it does not have. The garnishee (Bank) cannot challenge the order nisi or the judgment leading to it.

As I stated earlier, the judgment debtor/Appellant cannot, through its opportunity to show cause, seek within that forum an attempt to re-contest the claim at trial or to argue an appeal against the judgment before a Court of coordinate

jurisdiction .

In the circumstances, the appeal being totally unmeritorious, is dismissed. I award the sum of N5,000,000.00 (Five Million Naira) against the Appellant to the Respondent.

ADAMU JAURO, J.S.C. : I have had the privilege of reading in draft the lead judgment just delivered by my learned brother, Abubakar Sadiq Umar, JSC, and I am in complete agreement with the reasoning and conclusion that this appeal is devoid of merit and ought to be dismissed. This appeal is solely against the garnishee proceedings conducted by the trial

Court, culminating in the garnishee order absolute.

The gravamen of the Appellant's complaint is that after the grant of the garnishee order nisi, the said order was allegedly not served on it as judgment debtor.

My learned brother has excellently treated all the issues raised in the appeal; hence, I adopt the judgment as mine in dismissing the appeal.

Appeal dismissed.

OBANDE FESTUS OGBUINYA, J.S.C. : I had, in advance, a thorough preview of the leading judgment delivered by my learned brother, Abubakar Sadiq Umar, JSC. I concur fully with the judicial reasoning and conclusion therein.

The Appellant starved this Court of the necessary concrete evidence of perversity against the lower Court's decision, a condition sine qua non, that will compel this Court to disturb its immaculate decision that is in total alignment with the law of garnishee proceeding. The law, in its infinite wisdom, does not grant this Court an unbridled licence to tinker with a decision that has not disclosed any enmity with the letters and spirit of the law . Hence, I endorse the lower Court's decision hook, line and sinker .

Having regard to that