

2. And for such further Order or Orders as this Honourable Court may deem fit to make in the circumstances.

The application is supported by a 14- paragraph affidavit in support dated 13th December, 2010 and deposed to by one Jide Alatishe, a Litigation Clerk in the Law Firm of DEJI DUROJAIYE of counsel to the Garnishee/Applicant. Attached thereto are two (2) Exhibits to wit: Exhibits S1 and S2. There is also a written address dated 10th December, 2010.

The Judgment Creditor/Respondent has in opposition filed a 17-paragraph counter affidavit dated 12th January, 2011 and deposed to by one Hakeem Salman, a Litigation Manager in the Law Firm of Marine Partners, of counsel to the Judgment Creditor/Respondent. There is also a written address of the same date.

I have carefully examined all the above stated processes and listened to the oral submissions of both learned counsel.

Judgment was entered in this matter after plenary trial for the Judgment Creditor/Respondent against the judgment Debtor on 25th day of June, 2009. The Judgment Creditor/Respondent subsequently commenced Garnishee proceedings and obtained an Order Nisi on 23rd November, 2009 against the Garnishee i. e. Skye Bank Plc.

The said Order Nisi was made Absolute in a considered Ruling on 10th December, 2010. It is against this Ruling that the Appeal upon which the Motion for stay is predicated.

The fundamental issue is whether this Court having granted a Garnishee Order Absolute and has not become functus officio in which respect of this matter. The position of the law is that once a court makes or pronounces a Garnishee Order Absolute, the court becomes functus officio as far as that matter is concerned, in that the Judge who decided the matter is precluded from again considering the matter even if new evidence or argument are presented to him.

See the Supreme Court decision in **Union Bank of Nigeria Plc. Vs. Boney Marcus Industries Limited (2005) 3 NWLR (Pt. 943) 654 at 666 – 667.**

The further implication of the court pronouncing a Garnishee Order Absolute is that the same court cannot stay the execution of the said Order, even on

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