

alleged irregular execution of the Order Absolute or based on the existence of a pending appeal filed in the matter.

See *Publication Techniques (Nig) Limited Vs Attorney General of Lagos State* (2005) 3 NWRL Page 92.

See also *Re diamond Bank Limited* (2002) 17 NWLR (pt. 795) Page 120 at 134 - 135.

Furthermore Section 91 of the Sheriff's and Civil Process Act Cap S6, Laws of Lagos State, 2003, provides thus:


"Payment made by or execution levied upon a garnishee under any such proceedings shall be a valid discharge to him against the debtor liable under a judgment or order, to the amount paid or levied, even though such proceeding may be set aside or the judgment or order reversed."

The implication of the above provision is that a Garnishee has no interest or duty to protect the res in the appeal the outcome of which will have no impact on it; rather he has a duty to pay the Judgment debt as ordered by the court. See the Court of Appeal decision in *U.B.A. Vs Ekanem* (2010) 2 NWLR (Pt. 1177) Page 181 at 197.

The present application is therefore demonstrably incompetent and is a time-wasting exercise, same is accordingly dismissed.

I SO RULE.




HON. JUSTICE Y. A. ADESANYA (MRS)
JUDGE
07/02/2011

*#40 Per folio
15 folios at #40 per folio*

ABOOR
Holo
08-2-11
ADIG T. OLABISI
HIGHER REGISTRAR
HIGH COURT

VERIFIED TRUE COPY