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Garnishee Proceedings under the Jurisdiction of National Industrial Court: An Appraisal

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Abstract

Garnishee proceedings are a legal process used to recover debts owed to a creditor by seizing funds held by a third party on behalf of the debtor. This Paper provides an appraisal of the current state of the law regarding garnishee proceedings under the jurisdiction of the National Industrial Court of Nigeria (NICN). It examines recent decisions made by the NICN in garnishee proceedings, as well as appeals to the Court of Appeal. The article explores the legal and constitutional issues involved in these types of cases and emphasizes the importance of a fair and equitable resolution that protects the rights of all parties. The paper adopted doctrinalresearch methodology and by analyzing recent developments and rulings, the paper aims to provide a comprehensive assessment of garnishee proceedings in the NICN's jurisdiction and offer insights into best practices and potential future developments in this area of law. The paper recommended that as the law continues to evolve in this area, it is important to continue monitoring developments and assessing their implications for best practices in garnishee proceedings in the NICN's jurisdiction.

Keywords: Garnishee Proceedings, National Industrial Court, Jurisdiction

1. Introduction

Garnishee proceedings are legal mechanism used in Nigeria to recover debts owed by a debtor. It entails a judicial process wherein a creditor seizes money owed to the debtor by a third party, typically a bank, in order to satisfy an unpaid debt[1]. The goal of this process is to ensure that the creditor receives the compensation they are owed, while also promoting fairness and justice.

In this process, the bank, or "garnishee," is obligated to hold the funds belonging to the debtor, also known as the "judgment debtor," until the court orders the release of the funds to the "judgment creditor," the party owed the debt. This mechanism is particularly useful when traditional methods of debt collection have failed, and it helps to ensure that the creditor is not left empty-handed.

In Nigeria, the procedures for garnishee proceedings are outlined in various legal sources, including the High Court Rules of different states, the Federal High Court Civil Procedure Rules, the Sheriffs and Civil Process Act, and the Judgment (Enforcement) Rules. Garnishee proceedings provide a means for creditors to recover debts owed to them by attaching the assets of the debtor held by a third party, such as a bank.

This process is initiated by the creditor filing an application for a garnishee order with the court, specifying the amount owed, the debtor's details, and the third party's information. It is important to note that garnishee proceedings are a separate legal action between the creditor and the third party, distinct from the original debt obligation between the creditor and the debtor.

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[1]F Ihedoro, 'Understanding Garnishee Proceedings in Nigeria', available at https://oal.law/understanding-garnishee-proceedings-in-Nigeria/?utm_source=Mondaq&utm_medium=syndication&utm_campaign=LinkedIn-integration and accessed on 21st January 2023.

2. Definitions of Key Terms

a. Judgment Creditor

A judgment creditor refers to an individual or entity that has obtained a favorable court judgment in a legal dispute, entitling them to receive compensation or other remedies from the judgment debtor. This term encompasses not only the original party who filed the lawsuit, but also any individual or entity that has subsequently acquired the rights to the judgment through legal means. The judgment creditor has the legal authority to enforce the judgment through various means, such as garnishment, asset seizure, or other court-ordered remedies.

b. Judgment Debtor

A judgment debtor is an individual or entity against whom a court has issued a judgment in a legal dispute, ordering them to pay a certain amount of money or provide other remedies to the judgment creditor. This term includes not only the original party against whom the lawsuit was filed, but also their successors or assigns who may have inherited the debt or legal obligation. The judgment debtor is legally obligated to fulfill the terms of the judgment, and may face consequences such as garnished wages, asset seizures, or other court-ordered remedies if they fail to do so.

c. Garnishee

A garnishee is a third party who plays a crucial role in the collection of a judgment debt. The garnishee is an individual or entity that owes money to the judgment debtor or holds the debtor's money in an account. The judgment creditor can initiate a legal process called garnishment, which requires the garnishee to repay the debt they owe to the judgment debtor directly to the judgment creditor, or to use the funds they hold on behalf of the debtor to satisfy the judgment debt.[2]

In other words, the garnishee becomes involved in the dispute between the judgment creditor and debtor, and is obligated to use the funds they possess that belong to the debtor to satisfy the debt owed to the creditor. This process provides an avenue for the judgment creditor to collect the debt owed to them, even if the judgment debtor is unwilling or unable to pay directly. The garnishee's role is therefore essential in ensuring that judgment debts are fulfilled and justice is served in legal disputes.

Upon receiving a garnishee order, the third party responsible for holding the debtor's funds must inform the court whether they possess sufficient funds to satisfy the judgment debt. This third party can be a bank, an employer, or any other entity that holds assets on behalf of the debtor.

If the third party is a bank, the garnishee order mandates the bank to freeze the debtor's account and use the funds to pay off the debt owed to the creditor. In the case of an employer, the garnishee order requires the employer to withhold a portion of the debtor's salary to pay off the debt, with compliance expected within 14 days of receipt.

Once the court grants the garnishee order, the third party becomes legally obligated to comply with the order and ensure that the debt owed to the creditor is paid off using the funds they hold on behalf of the debtor.

[2]*STB LTD. v Contract Resources (NIG.) LTD.* [2001] 6 NWLR (PT. 708) 115 at 123.

In summary, the garnishee order mandates the third party holding the debtor's funds to inform the court of their ability to satisfy the judgment debt, and to use the funds in their custody to pay off the debt owed to the creditor, as per the court's instructions.

3. Procedure for Commencing Garnishee Proceedings[3]

Garnishee proceedings occur in two primary stages: the order nisi and the order absolute.[4]The garnishee order nisi is issued by the court when the judgment creditor provides evidence of a third party, the garnishee, who holds funds belonging to the judgment debtor. The court then directs the garnishee to appear in court and explain why the funds in their possession should not be used to pay off the judgment debt.[5]

If the garnishee fails to appear in court or fails to provide a valid reason for not using the funds to satisfy the debt, the court may issue a garnishee order absolute. This order mandates the garnishee to use the funds they hold on behalf of the debtor to pay off the judgment debt, subject to certain legal limitations.

The garnishee order nisi is the initial step in the garnishee proceeding, while the garnishee order absolute represents the court's final directive for the garnishee to pay the judgment debt from the funds they hold[6]. Together, these orders provide a legal mechanism for judgment creditors to collect debts owed to them.

According to Section 83 (1) & (2) of the Sheriffs and Civil Process Act (SCPA), the procedure for commencing garnishee proceedings involves the following steps:

i. The judgment creditor files an application in court through a motion ex-parte, which means that the motion is made without the presence of the opposing party.

ii. The application is accompanied by an affidavit, which is a written statement made under oath that requests the court to issue a garnishee order nisi.

iii. The garnishee order nisi is a preliminary order that requires the garnishee, or the third party holding the debtor's funds, to appear in court and explain why the funds should not be used to pay off the judgment debt.

iv. If the garnishee fails to provide a valid reason or does not appear in court, the court may issue a garnishee order absolute, which mandates the garnishee to use the funds they hold to pay off the judgment debt, subject to legal limitations. This procedure provides a legal framework for the judgment creditor to commence garnishee proceedings and recover debts owed to them through the seizure of the debtor's assets held by a third party.[7]

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[3]Nigeria: understanding garnishee proceedings in Nigeria

[4] 'Critical Analysis: Garnishee Proceedings vis-a-vis Jurisdiction And '<https://www.aaachambers.com/articles/critical-analysis-garnishee-proceedings-vis-a-vis-jurisdiction-and-execution/.>accessed 10 January 2024.

[5]Ibid.

[6]Ibid.

[7] See also the case of *Oceanic Bank Plc v Oladepo & Anor (*2012) LPELR-19670 (CA)

4. The National Industrial Court

The establishment of the National Industrial Court of Nigeria[8] has been hailed as a major step forward for the Nigerian judiciary, demonstrating the government's responsiveness to the needs of the commercial and private sectors in a rapidly changing global landscape. This development reflects recognition of the importance of specialized courts in meeting the demands of modernization, technological progress, and globalization, as seen in many democratic nations around the world. The creation of the National Industrial Court is a positive indicator of Nigeria's commitment to building a stronger and more efficient judicial system that can effectively address the complex legal issues arising from the increasingly interconnected and dynamic business environment.

Therefore, The National Industrial Court of Nigeria (NICN)is a specialized court that deals with civil cases and matters related to or connected with any labour, employment, trade unions, industrial relations, and matters arising from the workplace, The terms and conditions of employment that impact the well-being and experience of workers, such as the physical and mental health and safety conditions in the workplace, compensation, benefits, leave, and other aspects of the employment relationship, as well as any related issues that may affect these conditions, are all critical considerations in promoting a positive and supportive work environment[9]. The court was established in 1972 to provide workers with a forum where they could seek justice and assert their rights[10].The NICN is headed by the President of the National Industrial Court of Nigeria,This individual is selected and appointed to the position by the President of Nigeria, following a recommendation from the National Judicial Council, a body of experts responsible for evaluating and recommending candidates for judicial roles. This process helps to ensure that appointments are made based on merit, expertise, and careful consideration, promoting confidence in the selection of individuals for key positions.[11]. The court has several judges, including Hon. Justice B.B. Kanyip, Phd, (FNIALS), OFR, Hon. Justice M. N. Esowe, FCIArb, Hon. Justice F. I. Kola-Olalere, FCIArb, and Hon. Justice O. A. Obaseki-Osaghae, FCIArb[12].

In simple terms, the National Industrial Court is a court that deals with disputes between employers and employees. It was created to provide workers with a forum where they could seek justice and assert their rights. The court has several judges, including the President of the National Industrial Court of Nigeria, who is appointed by the President of Nigeria on the recommendation of the National Judicial Council.

The National Industrial Court was established through the Third Alteration Act of 2010, which added Section 254(C) to the Constitution of the Federal Republic of Nigeria, 1999 (as amended in 2011)[13], This new provision granted the court exclusive jurisdiction over employment, industrial, and labor disputes, solidifying its position as a specialized court equipped to handle the intricacies of these complex matters[14]. This significant development was further underscored in the case of

[8]Hereinafter referred to as NICN
[9]<https://www.makemoney.ng/national-industrial-court/>accessed>accessed 16 January 2024.
[10]Ibid.
[11]Ibid.
[12]Ibid.
[13]Hereinafter referred to as CFRN 1999
[14]<https://lawpavilion.com/blog/the-national-industrial-courts-role-in-employment-and-labour-related-matters/>accessed 16 January 2024.

First Bank PLC v Anwana[15], where the court reaffirmed the exclusive jurisdiction of the National Industrial Court in matters related to employment and labor. This landmark decision marked a turning point in the legal landscape, signaling a new era of expertise and fairness in the adjudication of employment and labor disputes.

With its specialized focus and constitutional backing, the National Industrial Court is well-positioned to navigate the complexities of labour and employment matters, delivering justice with precision and equity.

The National Industrial Court plays a crucial role in adjudicating both civil and criminal matters related to labor and employment disputes in Nigeria[16]. Established under the National Industrial Court Act (NICA), the court's jurisdiction is defined in Section 7 of the Act[17]. The NICA, which came into force in 2006, conferred exclusive jurisdiction on the National Industrial Court to hear cases related to labor and employment, preempting any other court from assuming jurisdiction over such matters. Prior to the Third Alteration Act, the National Industrial Court Act had addressed some of the issues that arose under the Trade Disputes Amendment Act[18], which had previously transferred the jurisdiction of courts in trade disputes to the National Industrial Court. The introduction of the 1999 Constitution marked a significant shift in Nigeria's political landscape, ushering in civilian rule and establishing the Constitution as the paramount legal authority in the country. This development had far-reaching implications for the legal system, including the jurisdiction of the National Industrial Court.

The 1999 Constitution of Nigeria serves as the foundational legal document for the country, holding the highest legal authority and superseding all other forms of legislation, statutes, and laws. This Constitution is paramount and cannot be subordinate to any other legal enactments, highlighting the preeminence of constitutional law within the Nigerian legal system. This represents a departure from previous governance structures where the constitution may not have held the same level of authority. This constitutional supremacy underscores the critical role of constitutional principles in guiding the governance of the country. In fact, as stated in Section 1(1) and (3) of the 1999 Constitution, any law that is inconsistent with the Constitution is deemed void to the extent of its inconsistency.[19]This provision reinforces the Constitution's status as the supreme law of the land and emphasizes the importance of ensuring that all laws and policies align with its principles.

A careful examination of Sections 7 and 11 of the National Industrial Court Act reveals that the jurisdiction of regular courts in adjudicating trade disputes was transferred exclusively to the National Industrial Court. This had the effect of divesting state High Courts of their jurisdiction in trade disputes cases, as outlined in Section 272 of the 1999 Constitution. This section states that:

a.) The High Court of a state has the authority to hear and determine civil proceedings involving the establishment or scope of legal rights, powers, duties, liabilities, privileges,

[15] (2016) LPELR-41247(CA)
[16]The Constitution of the Federal Republic of Nigeria, 1999. S.254 (c) (1) (i), (iii).
[17] N0.1 2006.
[18]Trade Disputes (Amendment Act) of 1992 abolished the Trade Disputes (Emergency Provisions) Act N0.21 of 1968 which specifically ousted the jurisdiction of the High Court in all matters of trade disputes, inter and intra union disputes as prescribed by the Act.
[19]*A.G. Abia State v A.G. Federation* (2002) 6 NWLR (Pt. 763) pp. 264.

interests, obligations, or claims, as well as criminal proceedings related to penalties, forfeitures, punishments, or other liabilities resulting from offenses committed by individuals, subject to the provisions of S.251 and other constitutional provisions.

b.) The term "civil or criminal proceedings" in this section encompasses cases that originate in the High Court of a state, as well as those brought before the court for appellate or supervisory review.

An analysis of the above provision reveals that, except for matters falling within Section 251 of the 1999 Constitution, state High Courts have broad jurisdiction over all other matters. This implies that there is no constitutional provision that explicitly excludes state High Courts from hearing cases specified in Section 7 of the National Industrial Court Act.

It is important to note that the National Industrial Court Act, as an existing law, is subject to the provisions of the 1999 Constitution, particularly Section 315(1). This section stipulates that existing laws shall remain in effect, but with any necessary modifications to ensure their conformity with the Constitution. This means that while the National Industrial Court Act may have established the jurisdiction of the National Industrial Court over trade disputes, this jurisdiction must be exercised in a manner that aligns with the Constitution and its provisions regarding the jurisdiction of state High Courts.

Therefore, the jurisdiction of state High Courts and the National Industrial Court must be interpreted in a manner that reconciles their respective roles and authorities under the Constitution and the National Industrial Court Act, ensuring a coherent and effective system for adjudicating trade disputes in Nigeria.

4.1 The Jurisdiction of the National Industrial Court

Jurisdiction is a multifaceted concept that encompasses a range of judicial actions and can have varying meanings depending on the context. Essentially, jurisdiction refers to the authority of a legally constituted court to hear and decide on matters brought before it, taking into account the subject matter of the dispute, the parties involved, and the type of relief sought.[20]

In other words, jurisdiction defines the boundaries within which a court can exercise its power to adjudicate cases and administer justice. This concept is crucial in ensuring that cases are heard and determined by the appropriate courts, with the necessary expertise and authority to deliver fair and valid judgments.

Jurisdiction can be categorized into different types, such as subject-matter jurisdiction, territorial jurisdiction, and personal jurisdiction, each with its own set of criteria and considerations. It is essential to establish the existence of jurisdiction in any legal proceeding to ensure that the court has the legitimate authority to hear and decide on the matter at hand.

Jurisdiction also refers to the legal authority of a court to hear and decide on a particular case, determining the boundaries within which it can exercise its judicial power.[21] It defines the limits of a court's authority, setting the parameters of its precinct and the scope of its legal reach.

[20] Obiuwenbi v C.B.N. (2011) 7 NWLR (Pt. 1247) 465 at 506 C – D.
[21] Nabaruma v Offodile (2004) 13 NWLR (Pt. 891) 599 at 626 A – B.

The jurisdiction of the National Industrial Court of Nigeria is essentially governed by section 7 of the National Industrial Court Act[22]. The section provides that:

a.) The National Industrial Court shall have exclusive jurisdiction to hear and determine all civil causes and matters relating to industrial disputes and labor matters.

b.) The Court shall have jurisdiction to hear and determine any suit relating to or connected with any labor, employment, trade unions, industrial relations, and matters arising from workplace, the conditions of service, including health, safety, welfare of labour, employee, worker and matter incidental thereto or connected therewith.

c.) The Court shall have exclusive jurisdiction to entertain matters relating to the registration, administration, and management of the activities, organization, and financing of the activities of trade unions, employers' organizations, and industrial trade disputes.

d.) The Court shall have exclusive jurisdiction in matters relating to the registration and administration of the activities of trade unions, employers' organizations and industrial trade disputes involving the federal government or any of its agencies.

e.) The Court shall have exclusive jurisdiction in matters relating to the registration, administration, and management of the activities, organization, and financing of the activities of trade unions and employers' organizations operating in more than two states.

f.) The Court shall have exclusive jurisdiction in matters relating to the registration, administration, and management of the activities, organization, and financing of the activities of federations of trade unions and employers' organizations.

g.) The Court shall have exclusive jurisdiction in matters relating to the registration, administration, and management of the activities, organization, and financing of the activities of any trade union or employers' organization with a branch outside Nigeria.

h.) The Court shall have exclusive jurisdiction in matters relating to the registration and administration of the activities of any company or enterprise engaged in export processing zones and free trade zones.

i.) The Court shall have exclusive jurisdiction in matters relating to the registration and administration of the activities of any company or enterprise engaged in oil and gas, including upstream and downstream activities.

j.) The Court shall have exclusive jurisdiction in matters relating to the registration and administration of the activities of any company or enterprise engaged in mining, including solid minerals.

k.) The Court shall have exclusive jurisdiction in matters relating to the registration and administration of the activities of any company or enterprise engaged in telecommunications.

[22] N0.1 2006

l.) The Court shall have exclusive jurisdiction in matters relating to the registration and administration of the activities of any company or enterprise engaged in power generation and distribution.

m.) The Court shall have exclusive jurisdiction in matters relating to the registration and administration of the activities of any company or enterprise engaged in aviation.

n.) The Court shall have exclusive jurisdiction in matters relating to the registration and administration of the activities of any company or enterprise engaged in rail transport.

o.) The Court shall have exclusive jurisdiction in matters relating to the registration and administration of the activities of any company or enterprise engaged in maritime transport.

5. Garnishee Proceeding under National Industrial court: An Appraisal

Garnishee proceedings refer to a legal procedure where the money owed to a judgment debtor is seized or attached from a third party, often a bank, to satisfy a monetary judgment. The National Industrial Court of Nigeria (NICN) is a specialized court with exclusive authority over labour and employment matters, such as trade disputes, industrial relations, and working conditions[23]. The NICN has the authority to issue garnishee orders against the bank accounts of employers who fail to comply with its judgments, enabling the recovery of money owed through the garnishee proceedings process[24]. This mechanism provides a means of enforcing judgments in labour and employment cases, promoting fairness and justice in the workforce.

A recent legal debate emerged regarding the ability of the Court of Appeal to hear appeals from decisions made by the National Industrial Court of Nigeria (NICN) in garnishee matters. This issue was ultimately resolved by the Supreme Court of Nigeria in the case of *Skye Bank Plc v Victor Anaemem Iwu*[25]. The Supreme Court ruled that the Court of Appeal does not have jurisdiction to hear appeals from the NICN on garnishee matters unless they involve issues related to fundamental rights or constitutional interpretation.

The rationale behind this decision is that garnishee proceedings are unique and distinct from civil or criminal proceedings, falling outside the scope of the constitutional provision granting the right of appeal from the NICN to the Court of Appeal. This ruling clarifies the legal framework for handling appeals in garnishee matters arising from the NICN, promoting consistency and predictability in the judicial process.

In summary, the Supreme Court's decision establishes that the Court of Appeal's jurisdiction over NICN garnishee matters is limited to cases involving fundamental rights or constitutional interpretation, reflecting the unique nature of garnishee proceedings and their distinct legal status

Furthermore, another debate surrounding NICN garnishee proceedings has been whether the court can issue garnishee orders against the accounts of the Federal Government or its agencies, which

[23] 'An Appraisal of the Jurisdiction and Powers of the National Industrial Court',<https://kubanni.abu.edu.ng/bitstreams/1e2289e3-eeb5-43cc-990d-dec938ff87da/download.> accessed on 20th February, 2024

[24] 'Critical Analysis: Garnishee Proceedings vis-a-vis Jurisdiction and Execution,<https://www.aaachambers.com/articles/critical-analysis-garnishee-proceedings-vis-a-vis-jurisdiction-and-execution/.>Accessed on 20th February, 2024

[25] [2017] 16 NWLR pg 24

are typically shielded by the doctrine of public policy and immunity from execution. This matter was addressed in the case of *Federal University of Technology Akure & Anor v. Dr. Afolayan A. A. & 4 Ors*[26], where the NICN ruled that the accounts of the Federal Government or its agencies can be subject to garnishee proceedings if the judgment debt is established and the garnishee does not dispute its debt to the judgment debtor.

The court further clarified that garnishee proceedings do not interfere with the government's functions and are merely a means of enforcing valid judgments. Therefore, they are not bound by the doctrine of public policy. This decision provides clarity on the application of garnishee proceedings in cases involving government entities, balancing the need for accountability and the protection of public interests.

In summary, the NICN's ruling establishes that the accounts of the Federal Government or its agencies can be subject to garnishee proceedings under certain conditions, and that these proceedings are not restricted by the doctrine of public policy. This decision helps to establish a framework for handling garnishee proceedings in cases involving government entities, promoting fairness and accountability in the resolution of financial disputes.

Obtaining a garnishee order in the National Industrial Court of Nigeria (NICN) is a legal process that involves several steps and typically takes several weeks to several months to complete. The duration of the process can vary depending on the complexity of the case, the availability of the parties involved, and the court's workload.

The first step is to file an application for a garnishee order nisi, which is a preliminary order requiring the garnishee (usually a bank or other financial institution) to appear in court and show cause why the order should not be made final. This application must be accompanied by an affidavit demonstrating the applicant's right to the debt and the garnishee's liability for the debt. The court will then set a date for the hearing of the application, which is usually within 14 days of the filing of the application[27]. This 14-day period is provided to allow the garnishee sufficient time to respond to the application and prepare for the hearing.

At the hearing, the court will consider the evidence presented and may grant the order nisi, which is a provisional order requiring the garnishee to hold the funds in the judgment debtor's account until the court determines whether the order should be made final.

The order nisi is typically returnable within 30 days, during which time the judgment debtor may contest the application and present evidence to show why the order should not be made final. If the judgment debtor does not contest the application or fails to show sufficient cause, the court may make the order nisi absolute, which requires the garnishee to pay the judgment creditor the amount owed from the judgment debtor's account.

[26]NICN/ABJ/273/2016, National Industrial Court of Nigeria, Abuja Judicial Division (2016).: [Federal University of Technology Akure & Anor v. Dr. Afolayan A. A. & 4 Ors](https://judgement.nicnadr.gov.ng/details.php?id=4578)

[27] 'Garnishee Proceedings in Nigeria: The Need For Reform'<https://aluko-oyebode.com/wp-content/uploads/2021/06/GARNISHEE-PROCEEDINGS-IN-NIGERIA-THE-NEED-FOR-REFORM-f1.pdf.>accessed 20th February, 2024

In summary, the duration of obtaining a garnishee order in the NICN typically takes several weeks to several months, including the filing of the application, the 14-day period for the garnishee to respond, the hearing of the application, and the period for the order nisi to be made absolute. The process aims to ensure that the rights of all parties are protected and that the judgment creditor is able to recover the amount owed.

The process of applying for a garnishee order in the National Industrial Court of Nigeria (NICN) involves several steps and associated fees. Here is a breakdown of the typical fees involved:

Filing fee for the ex parte application for a garnishee order nisi: This fee is required to initiate the process and is usually set at ₦5,000. It covers the administrative costs associated with filing the application with the court.

Service fee for the garnishee order nisi on the garnishee and the judgment debtor: This fee covers the cost of serving the garnishee order nisi on the garnishee (usually a bank or financial institution) and the judgment debtor. The fee is typically ₦2,000 per person served.

Filing fee for the affidavit of the garnishee: This fee is required for filing the affidavit of the garnishee, which provides information about the amount owed by the garnishee to the judgment debtor. The fee is usually set at ₦2,000.

Hearing fee for the garnishee order absolute: This fee is required for scheduling a court hearing to determine whether the garnishee order nisi should be made absolute, requiring the garnishee to pay the amount owed to the judgment creditor. The hearing fee is typically set at ₦10,000.

In total, the fees associated with applying for a garnishee order in the NICN typically add up to ₦19,000, excluding any additional costs such as legal fees, court messenger fees, or other expenses that may arise. However, the fees are subject to change and may vary based on the specific circumstances of each case and the court's discretion.

It is important to note that the fees are only a fraction of the overall cost of obtaining a garnishee order.

5.1 Most Recent Decisions of the Court and Appeals to Court of Appeal

i. *Bogoro Local Government Council v. Kyauta & Ors*[28]: In a significant decision made in June 2020, the Court of Appeal in Jos, Nigeria, ruled that a judgment debtor should be given the opportunity to be heard in a garnishee proceeding before a garnishee order nisi is made absolute[29]. The court overturned a garnishee order absolute issued by the National Industrial Court, which had attached the funds of a local government council without considering the applications of the judgment debtor or other local government councils involved.The Court of Appeal's decision emphasized the importance of ensuring that all parties, including judgment debtors, have the opportunity to present their case and be heard before a final order is issued in a garnishee proceeding. This decision highlights the

[28] '(2020) LPELR-49812 (CA)'.

[29] When a judgment debtor should be heard in a garnishee proceeding. https://guardian.ng/features/when-a-judgment-debtor-should-be-heard-in-a-garnishee-proceeding/.

Nigerian judiciary's commitment to upholding the principles of fairness and due process in civil proceedings.

ii. Garnishee Order: Industrial Court Strikes Out Federal Ministry of Finance Preliminary Objection'[30]: In October 2019, the National Industrial Court in Kano, Nigeria, dismissed a preliminary objection filed by the Federal Ministry of Finance, which was the garnishee in a case involving a judgment creditor and the Nigerian Police Force[31]. The court ruled that the argument that the Federal Ministry of Finance was not a juristic person was a technicality that should not be allowed to interfere with the pursuit of justice. The court emphasized the importance of prioritizing the interests of justice over technicalities in legal proceedings, and emphasized that the law should serve as a means of achieving fairness and equity rather than a tool for obstruction. This decision underscores the Nigerian judiciary's commitment to delivering justice that is fair, transparent, and grounded in the principles of equity.

iii. 'National Industrial Court Issues Civil Procedure Rules for Garnishee Proceedings[32]: In 2017, the National Industrial Court of Nigeria issued its Civil Procedure Rules, which include a section on garnishee proceedings. The rules outline the steps involved in obtaining a garnishee order, including the application process for a garnishee order nisi, the service of the order on the garnishee and the judgment debtor, the procedure for making the order absolute, and the enforcement of the order[33]. These rules provide a comprehensive framework for conducting garnishee proceedings in the National Industrial Court of Nigeria and serve as a guide for lawyers, judges, and other legal practitioners involved in such cases. By establishing a clear and consistent procedure for garnishee proceedings, these rules help ensure that justice is served fairly and efficiently in cases involving the recovery of debts through the seizure of funds held by third parties.

iv. National Industrial Court Decision: In a case from December 2020, the National Industrial Court ruled that the Federal High Court lacked jurisdiction to entertain a garnishee proceeding against the Central Bank of Nigeria[34]. The court held that the Federal High Court's decision violated the provisions of the Court of Appeal Rules.

v. Court of Appeal Decision: In a case from November 2022, the Court of Appeal ruled that an appeal from the National Industrial Court's decision in a garnishee proceeding could be heard by the Court of Appeal on the basis of a question of fundamental rights[35]. This decision affirmed the Court of Appeal's jurisdiction to hear appeals in garnishee proceedings that involve constitutional issues.

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[30](2019) NICN/KN/146/2019'

[31]Garnishee Order: Industrial Court Strikes Out Federal Ministry of ....' https://www.nicnadr.gov.ng/news/644/c.

[32]National Industrial Court of Nigeria Civil Procedure Rules 2017'

[33] Federal Republic of Nigeria Official Gazette. https://www.nicn.gov.ng/officialGazette/National%20Industrial%20Court%20of%20%20Nigeria%20Civil%20Procedure%20Rules%202017.pdf.

[34]Federal High Court lacks jurisdiction to entertain garnishee proceeding against CBN - National Industrial Court," Vanguard News, December 8, 2020, https://www.vanguardngr.com/2020/12/federal-high-court-lacks-jurisdiction-to-entertain-garnishee-proceeding-against-cbn-national-industrial-court/

[35]Ibid

vi. National Industrial Court Decision: In a case from October 2022, the National Industrial Court struck out a garnishee proceeding, ruling that the court did not have the jurisdiction to entertain the matter[36]. The court held that the garnishee order nisi could not be considered null and void, as it had been issued in accordance with the National Industrial Court of Nigeria (Civil Procedure) Rules.

These decisions demonstrate the ongoing development of jurisprudence in the area of garnishee proceedings in Nigeria and highlight the importance of considering both legal and constitutional issues in these types of cases.

6. Conclusion

Garnishee proceedings are an important mechanism for recovering debts owed in the NICN's jurisdiction, but they also raise complex legal and constitutional issues. Recent decisions by the NICN and the Court of Appeal have helped to clarify the law in this area, but it is important to stay up-to-date on the latest developments and rulings. It is essential to ensure that the rights of all parties are protected and that resolutions are fair and equitable. In some cases, this may require a careful balancing of the interests of the creditor, the debtor, and the garnishee. As the law continues to evolve in this area, it is important to continue monitoring developments and assessing their implications for best practices in garnishee proceedings in the NICN's jurisdiction.

[36] NICN strikes out garnishee proceedings for want of jurisdiction," TheNigerialawyer, October 27, 2022, https://www.thenigerialawyer.com/2022/10/nicn-strikes-out-garnishee-proceedings-for-want-of-jurisdiction/