

**THE REPUBLIC OF UGANDA**  
**IN THE HIGH COURT OF UGANDA; AT KAMPALA**  
**(EXECUTION DIVISION)**

**MISCELANEOUS APPLICATIONS Nos. 1972, 1974, 1976, 1978, OF 2014**  
*(Arising from the decrees nisi made by the Assistant Registrar – Execution  
Division in Misc. Applications Nos. 1579, 1589, 1576, 1584, 1584 of 2014)*

**AYA INVESTMENTS (U) LIMITED..... APPLICANT**

*VERSUS*

**NTWATWA JACKSON ..... RESPONDENT**

**BEFORE: - THE HON. MR. JUSTICE ALFONSE CHIGAMOY OWINY –  
DOLLO**

**RULING**

This ruling consolidates four applications brought by the Applicant objecting to decrees nisi granted by the Assistant Registrar –Execution; and all tracing their roots to Mengo Chief Magistrate's Court Civ. Suit No. 348 of 2011, wherein the Respondent sued the Applicant and got judgment against the latter. The Applicant, vide H.C. Misc Revision Cause No. 32 of 2012, lodged an application for review of the decree; but this was dismissed by Zehurikize J. with costs to the Respondent. The Court record shows that on the 7<sup>th</sup> May 2013, the Registrar Execution had by a decree nisi in Misc. Application No. 685 Of of 2013 arising from EMA No. 1842 of 2012, ordered the Garnishee to pay the Respondent the sum of U. shs 11,148,500/=.

There is however a warrant for execution, issued on the 4<sup>th</sup> of December 2013 to a bailiff in Misc. Application No. 685 of 2013, arising out of EMA No. 1842 of 2012, showing that out of the principal sum of 11,948,500/= owing from the judgment debtor (Applicant herein) to the judgment creditor (Respondent herein) the sum of 11,148,500/= had been satisfied; and so, the outstanding balance,

inclusive of interests that had accrued, was 1,800,000/=. The Applicant contends that it fully satisfied the decree pursuant to a consent order made in EMA No. 1842 of 2013; and so it is not indebted to the Respondent in any sum at all.

This consent order, recorded by the Registrar Execution on the 5<sup>th</sup> December 2013, vacated the warrant of attachment issued on the 4<sup>th</sup> of December 2013. It provided for the payment of the sum of U. shs 800,000/= (Eight hundred thousand only) *'in full and final settlement of all his claims arising in Civil Suit No. 348 of 2011 / EMA No. 1842 of 2012'*, and further that *'the judgment creditor has no claims whatever against the garnishee or judgment debtor from the date hereof.'* It is therefore manifest that EMA No. 1842 was with regard to the decree in Mengo Chief Magistrate's Court Civ. Suit No. 348 of 2011; and this was apparently satisfied by the consent order as there is no adverse claim against the Applicant in this regard.

The Respondent however commenced execution proceedings for the satisfaction of the other decretal orders; and so, he moved the Registrar Execution, vide Misc. Application No. 1576 of 2014 arising from EMA No. 1575 of 2014 for U. shs. 1,009,300/=: Misc. Application No. 1589 of 2014 arising from EMA No. 1587 of 2014 for U. shs. 787,800/=: Misc. Application No. 1584 of 2014 arising from EMA No. 1583 of 2014 for U. shs. 421,000/=: Misc. Application No. 1579 of 2014 arising from EMA No. 1578 of 2014 for U. shs. 356,000/=. On the 7<sup>th</sup> of July 2014, the Registrar Execution issued orders of decree nisi against Orient Bank (the Applicant's Bankers) for the satisfaction of each of these decrees by payment of the respective sums of money.

However before the decrees nisi in issue, granted by the Assistant Registrar, could be converted into decrees absolute, the Applicant challenged each of them in the various applications referred to herein above. It is the Applicant's contention that the consent order made in EMA No. 1842 of 2013 fully settled its entire obligation

to the Respondent, since all these decrees nisi have roots in the Mengo Chief Magistrate's Court Civ. Suit No. 348 of 2011. It therefore urges this Court to set aside the orders of decree nisi granted by the Assistant Registrar Execution in the subsequent applications since the Respondent is not entitled to any further payment from it.

The Respondent has not had the benefit of legal representation. He has not filed any affidavit evidence in response to the numerous applications filed in Court by the Applicant challenging the decrees nisi. However, to me, all the applications turn on the meaning and import to be attached to the consent order made in EMA No. 1842 of 2013. It is worth taking note of the fact that the consent order is quite clear that it is with regard to '*claims arising in Civil Suit No. 348 of 2011 / EMA No. 1842 of 2012*'. (*emphasis mine*). I do not read anything in the consent order even remotely suggesting that it, as well, settled claims and obligations that arose after the decree of Mengo Court settled in EMA No. 1842 of 2013, such as the costs of the applications brought in the High Court.

To my mind, the consent order was restricted to claims arising in, and did not extend to any claim arising from or out of, Mengo Civ. Suit No. 348 of 2011. Had it been otherwise, it could have been accorded a wider interpretation. Thus, the costs awarded in H.C. Revision Cause No. 32 of 2012, in the sum of U. shs. 1,009,300/=, and for which the Registrar Execution made an order of decree nisi on the 7<sup>th</sup> July 2014, in Misc. Application No. 1576 of 2014 arising from EMA No. 1575 of 2014, was not part of the claim in Misc. Application No. 685 of 2013 arising out of EMA No. 1842 of 2012, which was settled by the consent order referred to herein above. Had the intention been that the consent order was to cover even claims outside of EMA No. 1842 of 2012, the order would have expressly stated so.

In the event, the order of decree nisi granted by the Registrar Execution, on the 7<sup>th</sup> July 2014 in Misc. Application No. 1576 of 2014 arising from EMA No. 1575 of 2014, for U. shs. 1,009,300/=, is well founded. In the same vein, the orders of decree nisi the Registrar Execution made on the same date for the sums of shs. 787,800/= in Misc. Application No. 1589 of 2014 arising from EMA No. 1587 of 2014, shs. 421,000/= in Misc. Application No. 1584 of 2014 arising from EMA No. 1583 of 2014, shs. 356,000/= in Misc. Application No. 1579 of 2014 arising from EMA No. 1578 of 2014, are each respectively justified; and whatever sums remains unsatisfied out of these decrees nisi must be settled.

Therefore, each of the applications herein, brought urging Court to set aside these decrees nisi, fail; and so, I dismiss each of them with costs to the Respondent. The Registrar Execution is accordingly hereby directed to proceed with the process of grant of decree absolute in each of them for whatever debt remains unsatisfied in each of them.

**Alfonse Chigamoy Owiny – Dollo**

**JUDGE**

**04 – 02 – 2015**