

**IN THE CIRCUIT COURT OF JUSTICE, SITTING AT ASHAIMAN ON
MONDAY THE 17TH DAY OF MARCH, 2023, BEFORE HIS HONOUR SIMON
GAGA**

SUIT NO. C5/49/21

**HENRIETTA AFUA COLLEY } PETITIONER/RESPONDENT
OF AFIENYA }**

VRS

**TEDDY ANSAH COBBINA } RESPONDENT/APPLICANT
OF TAKORADI }**

**RULING ON MOTION ON NOTICE FOR
STAY OF EXECUTION**

On May 20th 2022, this Court entered judgment against the Respondent/Applicant to the effect that the Respondent/Applicant is to pay GH¢20,000.00 as alimony to the Petitioner/Respondent for her to begin a new life.

However, when the Respondent/Applicant failed to pay the judgment debt to the Petitioner, the Petitioner/Respondent applied for a Garnishee Order to attach the Respondent/Applicant's accounts with No. 0061239686019 and 0062239686015 at the UMB Bank, Takoradi High Street Branch.

The Court, on 10th August, 2022, granted the Garnishee Order and came out with the following orders;

COURT ORDER

Whereas this matter having come before this Court on the 12th August, 2022 for determination.

And upon hearing Joshua Ankamah, representative for UMB for Respondent herein.

It is hereby ordered that an amount of GH¢2,000.00 be taken from the UMB Account No. 0061239686019 of Teddy Ansah Cobbina, being the first tranche of payment to the Petitioner/Applicant, Henrietta Afua Colley, to offset part of an alimony owed her.

It is further ordered that the subsequent payment of GH¢2,000.00 a month be taken from the Respondent's monthly salary be paid through the Petitioner's, Henrietta Afua Colley, Account No. 0152914128018 with UMB, Tema East, Ashaiman. These payments take effect from this month of August, 2022 to May, 2023 respectively, being ten (10) months installments accordingly.

It is this order that the Respondent/Applicant is praying the Court to stay Execution pending the determination of a Motion on Notice to Set Aside the orders of the Court dated 1st August, 2022. Counsel came under *Order 43 rule 11* and *Order 45 rule 15 (1) (a) of CI 47*.

In moving the motion, Counsel repeated the depositions in the affidavit in support. Salient among them is paragraph 10 of the affidavit in support, which states as follows,

"10. That the applicant is presently unable to provide adequately for himself and his dependents due to the orders of the Court."

In opposing the motion, the Petitioner/Respondent repeated the depositions in the affidavit in opposition. Salient among them is paragraph 6, which states as follows,

"6. That in further response, Petitioner/Respondent wish to state that the Bankers have made a part payment of GH¢8,000.00 into the Petitioner's account, leaving the remaining balance of GH¢12,000.00 to be paid."

APPLICATION OF THE LAW

Under Order 45 rule 15 of CI 47, a judgment for the payment of money may be stayed by the Court on the application of the judgment debtor at the time of the

judgement, after the judgment or order. The Court, upon such an application may stay execution of the judgement or order if there are special circumstances which render it inexpedient to enforce the judgment, or that the applicant is unable from a just cause to pay the money. The affidavit in support of the application shall provide the necessary evidence, for example, the income of the applicant and any amount of liabilities to substantiate the applicant's inability to pay the judgment debt.

SEE "*A PRACTICAL GUIDE TO CIVIL PROCEDURE IN GHANA by Samuel Marful-Sau (JSC) page 150-151.*

It is very interesting to note that in paragraph 10 of the affidavit in support, the applicant deposes that he is not able to provide adequately for himself and his dependents as a result of the order. However, he fell short of telling the Court his income level and any amount of liabilities to demonstrate why he could not pay the judgment debt or the order to warrant a stay as requested by *Order 45 rule 15 of the CI 47.*

In the light of this therefore, I refuse the application to stay of execution.

I award cost of GH¢1,000.00 against then applicant.

(SGD) (H/H) SIMON GAGA
(CIRCUIT COURT JUDGE)

- PARTIES – PRESENT.
- COUNSEL FOR APPLICANT –
BRIGHT AMU FOR PRINCE HODO – PRESENT.

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