

IN THE SUPERIOR COURT OF JUDICATURE, IN THE HIGH COURT OF JUSTICE,
COMMERCIAL DIVISION, HELD IN ACCRA ON TUESDAY, THE 8TH DAY OF
AUGUST, 2023 BEFORE HIS LORDSHIP FRANCIS OBIRI 'J'.

SUIT NO. CM/RPC/0875/2020

DIGITRONIX SYSTEMS LTD - PLAINTIFF/APPLICANT

Vs

1. JISLAH FINANCIAL SERVICES LIMITED - DEFENDANT
2. GCB CAPITAL - RESPONDENT

RULING

I have listened to the submission by counsel for the Plaintiff/Applicant (hereinafter called the Applicant) for the grant of an ex parte motion for Garnishee Order Nisi to be issued in this case.

I have gone through the documents filed in this application. This is a one-sided application which was filed on 28th July, 2023.

The application is directed at GCB Capital to disclose the amount standing in the name of the Judgment Debtor as its credit.

I have however seen an application on notice for Stay of Proceedings in the entire case under section 87 of the Corporate Insolvency and Restructuring Act, 2020 (Act 1015). The said motion was filed on 21st October, 2020 by the Registrar of Companies. The motion has not been moved as of now. The motion has not been granted or dismissed.

It is my view, that since the said motion is pending, it was premature for the Applicant to have filed the present application. Procedurally, what the Applicant ought to have done was to have caused hearing notice to be issued and served on the Registrar of Companies for it to come and moved its motion for Stay of Proceedings on a specific date.

In that case, if the motion is not moved on the said date, the Applicant herein can ask for same to be dismissed or struck out for want prosecution. It will only be after the application for Stay of Proceedings has been dismissed or struck out that the court will be clothed with jurisdiction to entertain this present application.

It is trite law, that a court is not bound by misconceptions of legal proceedings by counsel.

See: GIHOC REFRIGERATION AND HOUSEHOLD PRODUCTS LTD (NO. 1) v HANNA ASSI (NO. 1) [2007-2008] 1 SCGLR 1

Again, a court is not to grant an application hook, line, and sinker because it is a one-sided application. The court must scrutinize it to see whether its jurisdiction has been properly invoked.

See: AMIDU (NO.1) v ATTORNEY-GENERAL, WATERVILLE (BVI) CO. LTD & WOYOME (NO.1) [2013-2014] 1 SCGLR 112

It is my view, that since the Registrar General's Department motion for Stay of Proceedings of the entire suit is pending, the jurisdiction of this court has not been properly invoked to grant the application. I will therefore proceed to dismiss same.

SGD.

FRANCIS OBIRI

(JUSTICE OF THE HIGH COURT)

COUNSEL

NANA AMA AMPONSAH FOR THE PLAINTIFF/APPLICANT

COUNSEL FOR THE RESPONDENT ABSENT

AUTHORITIES

1. GIHOC REFRIGERATION AND HOUSEHOLD PRODUCTS LTD (NO. 1) v HANNA ASSI (NO. 1) [2007-2008] 1 SCGLR 1
2. AMIDU (NO.1) v ATTORNEY-GENERAL, WATERVILLE (BVI) CO. LTD. & WOYOME (NO.1) [2013-2014] 1 SCGLR 112