

IN THE SUPERIOR COURT OF JUDICATURE, IN THE HIGH COURT OF JUSTICE, CRIMINAL COURT 4, HELD IN ACCRA ON FRIDAY, THE 28TH DAY OF FEBRUARY, 2025, BEFORE HER LADYSHIP, JUSTICE COMFORT KWASIWOR TASIAME, JUSTICE OF THE HIGH COURT.

SUIT NO.: GJ/365/2018

MICHAEL NII AAYI HAMMOND - PLAINTIFF

VS.

1. THE DEPUTY SHERIFF - DEFENDANTS

2. TRADEX RESOURCES LTD

WILLIAM QUARTEY - 3RD PARTY

PARTIES: - PLAINTIFF/J/CREDITOR - PRESENT

**WILLIAM QUARTEY REP FOR 2ND DEFENDANT/J/ DEBTOR -
PRESENT**

**COUNSEL: ANDREW K. VORTIA FOR THE PLAINTIFF/J CREDITOR
/RESPONDENT - PRESENT**

**SOLOMON BOYE BOISON FOR THE 2ND DEFENDANT/ JUDGMENT
DEBTOR/APPLICANT -ABSENT**

RULING

This is motion on notice for an order unfreezing the frozen Account of Tradex Resources Foundation/Judgment Debtor.

Applicant attached affidavit in support of the application. Permit me to quote some parts of the affidavit in support.

“That on Friday 30th July, 2021 this court entered judgement in favour of the plaintiff. That the judgement ordered the 2nd Defendant/Applicant herein to refund the auctioneer’s fees because the auction was conducted at his instance. That the judgement also ordered that interest be calculated based on Bank of Ghana lending rate from 2nd day of March, 2015 to date of final payment. That the Judgement respondent filed an Amended Entry of Judgement; Auctioneer’s fees of GH¢13,370.00 plus interest of GH¢25,698.76 which amounts to GH¢39,068.76. That the total indebtedness of the Applicant amounted to GH¢44,068.76

That on the 27th September, 2024 per garnishee order absolute an amount of GH¢105,000.00 was debited from the accounts of the Applicant. That based on the garnishee order, the applicant has overpaid its share of the judgement debt by as much as GH¢60,931.24

Applicant attached the following documents to the application;

- A. Judgement dated 30th July, 2021.
- B. Amended entry of Judgement.
- C. Interest computation document.

BY COURT:

The judgement in contention dated 30th July, 2021 read in part as follows: From all the above, it is my finding that, judgement is hereby entered in favour of the plaintiff against the 1st defendant for the refund of the tax element taken from the purchase price of GH¢191,000.00 to the plaintiff.

1. An order directed at the 1st Defendant for the refund of tax element taken from the purchase price of GH¢191,000.00 which is GH¢955.00.
2. An order for the refund of the amount of GH¢176,675.00 plus auctioneer's fees of GH¢13,370.00 by William Quartey and 2nd Defendant ----GH¢190,045.00.
3. Interest at Bank of Ghana lending rate on GH¢176,000.00 from March, 2015 till day of final payment.

The Applicant did not factor in paragraph 7 of the affidavit in support '**refund of an amount of GH¢ 176,000.00' and interest on the said amount from March 2015 to date of final payment.** The Entry of Judgement was filed on 28/1/2022 and per Exhibit 2 amounted to GH¢338,293.39.

I think based on the judgement that ordered for the refund of an amount of GH¢176,675.00 and the auctioneer's fees by William Quartey of Tradex Resources Foundation that resulted in the confusion or this application. This is so, because Exhibit 6A shows that the purchase price of GH¢191,000.00 which was paid into court was released to William Quartey who acted for and on behalf of 2nd defendant based upon an application filed on his behalf by lawyer Jah Josiah in the case of 1. William Quartey, 2. Tradex Resources Foundation V. Neil Hammond & Ors in Suit No. RPC/389/10. Auctioneer's fees be paid by the Tradex Resources Foundation because the auction was conducted at their instance and they benefitted from the sale.

Applicant's issue is that the Court stated William Quartey who received the amount of GH¢176,675.00 for and on behalf of the Tradex Resources Foundation. So, it means the person William Quartey the third party in the suit and the Chief Executive Officer (CEO) for the Applicant must pay that money personally. It must be noted that, the 3rd party and CEO for Applicant is in fact acting for the applicant in this application. He took part in the trial. In respect of the application, he regularly comes to court to represent the Applicant. A company cannot act in a vacuum, it acts through persons and the law has limited the acts of agents and officers of companies deemed as acts of those companies. Please see the case of **DALEX FINANCE AND LEASING**

COMPANY LTD. V EBENEZER DENTEL AMANOR AND OTHERS (J4/02/2020)
[2020] Unreported SC (14th April, 2021). The judgement stated that Mr. William Quartey who received the money for and on behalf of the Applicant herein. He has not stated that he has paid the said sum. I think the issue of the learned counsel for the Applicant is a mere technicality. The courts cannot be overridden by slavish adherence to mere technicality; the primary concern of judges is to do substantive justice. Please see the case of **Adisa Boya v. Zenabu Mohammed & Another [2018] Unreported Civil APPEAL No. J4/44/2017** Delivered on 14th February, 2018. And I am here to do justice. The judgment debts have not been paid.

It is my holding that this application lacks merit, same is hereby dismissed. Cost of GH¢2,000.00. against the Applicant.

(SGD)

COMFORT KWASIWOR TASIAME
(JUSTICE OF THE HIGH COURT)