

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA

AT NAROK

PETITION FOR BANCROPTCY CAUSE NO. 24 OF 2017 (O.S)

MARGARET WANJIRU MWENJA.....PETITIONER

JUDGEMENT

1. The petitioner filed her instant petition on 14/11/2017 by way of notice of motion dated 14/11/2017 seeking to be adjudged bankrupt. The petition is filed pursuant to sections 13 (1) (b) and 32 of the Insolvency Act No.18 of 2015.
2. The petition is supported by the grounds set out on the face of the notice of motion. First, she has stated that she is unable to pay her debts to her creditors. Second, she has stated that she has no assets and she is not having any business. Additionally, she has stated that she is not in gainful employment.
3. In addition to the aforesaid grounds, the petitioner has deponed to a 10 paragraphs supporting affidavit. She has deponed that she is a business lady with interests in Nakuru and in other parts of the country.
4. She has further deponed that until 2012, she owned a motor vehicle, which was involved in a road accident, in respect of which she was sued in Narok Chief Magistrate's Court Civil Case No. 147 of 2014.
5. She was ordered to compensate the plaintiff therein in the sum of Kshs.9,000,000. As a result her insurance company paid Ksh.3,000,000 to the judgement creditor, leaving an unpaid balance of Kshs.6,000,000.
6. As a result the Kshs.6,000,000 has been earning interest and now the outstanding amount is Kshs.9,000,000, which she cannot be able to pay.
7. She has further deponed that she has no assets or any money to satisfy the judgement creditor.
8. Furthermore, she has deponed that the only motor vehicle she had was repossessed by the bank for non-payment. Meanwhile, the outstanding amount of Kshs.9,000,000 continues to earn interest.
9. Finally she has deponed that she be adjudged bankrupt, but when her financial situation changes for the better, the orders may be withdrawn.
10. Counsel for the petitioner filed written submissions in support of the petition. He cited the case of *Joseph Mathiu Kibe (2016)* eKLR which I have considered.
11. In the light of unopposed affidavit evidence and the applicable law, I find that the petitioner is unable to pay her debts. I therefore find the petitioner has established the threshold of being declared bankrupt.
12. The upshot of the foregoing is that the petitioner is hereby adjudged bankrupt. There will be no order as to costs.
13. There be liberty to apply.

DATED, SIGNED and DELIVERED in open court at **NAROK** on this **24th** day of **MAY, 2018** in the presence of the petitioner in person.

J. M. BWONWONGA

JUDGE

24/5/2018