

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI

MILIMANI COMMERCIAL & TAX DIVISION

INSOLVENCY CAUSE NO. 2 OF 2018

RE: JANE KABURA - PETITIONER

RULING

1. Jane Kabura (the Petitioner) moves this Court for a Bankruptcy Order. She alleges to be insolvent.
2. In an affidavit sworn on 1st March 2017 made in support of the Petition, Kabura reveals that she has been a Shop owner at Uthiru which is along Waiyaki way. She was evicted from the Shop by her Landlord. She thinks that the eviction was unlawful. But that is for another day.
3. It is her allegation that in the course of the eviction, she lost goods worth Khs.1,700,000/= and cash of Khs.40,000/=. She was not only distraught but left financially destitute. Her Creditors have come calling in but she has no money to pay the Debts.
4. Annexed to the Affidavit is her Statement of Affairs. She holds Assets of Khs.2,600/= against Liabilities of Khs.820,000/=. The Creditors are listed and their Credits are set out. The Statement is a portrait of an Insolvent individual.
5. As required by Law the Bankruptcy proceedings were advertised in the Daily Nation of 17th April 2018. The Notice was in the page that carries classified Advertisements. Advertisement is on small size. While I would say no more on it, I would think that in future there should be clear directions as to the size of the Advertisement. Surely, it must be prominent enough to catch the attention of interested Parties (who would include Creditors).
6. Anyhow, no Creditor came forward and on the hearing day of 12th October 2018, only Kabura was in Court. She sought the Orders in the Petition.
7. A Debtor, like Kabura, is entitled to apply to be adjudged bankrupt on the grounds that the Debtor is unable to pay his or her Debts (Section 32(1) of The Insolvency Act). Kabura has filed a Statement of her financial position. I have no reason to disbelieve it. She seems unable to pay her debts and is deserving of the Orders sought.
8. There is no evidence that in 5 years immediately preceding this Application Kabura has been adjudged bankrupt or made a composition with her Creditors or entered into a scheme of arrangement (see Section 33 of The Insolvency Act).
9. I see no reason to decline the Petition. I do hereby make a Bankruptcy Order in respect to the Estate of Jane Kabura. The Official Receiver (or a person nominated by the Official Receiver) is hereby appointed to be the Bankruptcy Trustee in respect of the Debtors Property.
10. Those are my Orders.

Dated, delivered and signed in open Court at Nairobi this 19th day of October 2018.

F. TUIYOTT

JUDGE

Present:-

Jane Kabura - Petitioner

Nixon-Court Assistant