

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA

AT NAKURU

BANKRUPTCY CASE NUMBER 1 OF 2016

ADJUDICATION OF BANKRUPTCY

MARY NDUTA MUNGAI.....APPLICANT

RULING

1. Mary Nduta Mungai filed a debtors petition against herself on the 30th November 2016. She sought an order that a Bankruptcy order be made in respect of her estate and she be adjudged bankrupt. She stated reasons for the petition that she is unable to pay a sum of Kshs.503,150/= that she borrowed from a women group, and that her children are unable to assist her to pay the debt.

In her statement of affairs under the Insolvency Act, she named two creditors, **Furaha Women Group with an unsecured debt of Kshs.503,150/= and Gawamini Self Help group with an unsecured debt of Kshs.232,940/=**.

2. I have considered the Petition. The named creditors have not been served with the petition to give them an opportunity to either support or oppose the petition and or to examine the petitioner on her financial affairs.

In her petition the debtor had applied that the official receiver be appointed as trustee of her estate and property.

It is necessary that the above Women Groups be served to attend court for the purposes I have stated above.

3. Under the **Insolvency Act No. 18 of 2015, Section 32**, a debtor may apply for a Bankruptcy order against himself/herself on grounds that the debtor is unable to pay his debts.

Section 32(4) requires that the applicant debtor publishes a notice of the application in a in a newspaper circulating within the region in which the debtor ordinarily resides.

The court may decline to hear the application if no publication is made in accordance with **Subsection (4)**.

There is no indication at all that the petitioner has caused a publication of the petition in any newspaper or even served the named creditors with the petition.

4. I decline to consider the petition and make an order that the applicant/petitioner do serve the petition together with the statement and verifying affidavit upon the two named creditors with an order that the creditors do attend court to state their support or objection to the opposition to the petition.

5. The official receiver of the Republic of Kenya shall also be served with the said petition who upon receipt shall investigate the financial status of the petitioner and file a report as to whether of not the petitioner is able to pay her debts. This Report shall be filed within 30 days of service of the petition upon the official receiver.

6. The creditors shall be served with the petition and other documents within 30 days of this order after which the petition shall be heard on the 29th May 2017 at 9.00a.m.

Dated, Signed and Delivered this 20th Day of April 2017

J.N. MULWA

JUDGE