

REPUBLIC OF KENYA

High Court at Nairobi (Nairobi Law Courts)

Bankruptcy Cause 49 of 2002

JAGDISH CHATURBHAI.....DEBTOR

RULING

1. The background of this cause is that the Petitioner, Jagdish Chartubhai Patel filed the Petition dated the 16th May 2002 on 17th May 2002. In the said Petition, he had sought orders that a Receiving Order be made in respect of his estate and that he be adjudged bankrupt.
2. In support of his Petition, the Petitioner filed his Declaration of His Inability To Pay Debts, the Affidavit, Statement of Affairs in which Lists “A- L” were attached and a Certificate of Compliance all dated 15th May 2002.
3. Upon hearing of the said Petition, the court ordered that a Receiving Order do issue against the Estate of the Debtor and copies thereof be sent to the office of the Official Receiver of the Government of Kenya thereof to all District Registries of the High Court.
4. The cause was fixed for Public Examination of the Debtor several times in 2004, and on 5th October 2009, the court rescinded the Receiving Order issued on 17th May 2002 due to non-attendance of the Debtor who had been duly served to attend the Public Examination.
5. Following several meetings, on 6th November 2009, the Receiving Order was reinstated for a period of 3 months to enable appropriate settlement.
6. From the court records, it appears that the Debtor paid a sum of Kshs 60,000/ and continued to pay a sum of Kshs 10,000/= monthly to liquidate the debt. One of the creditors, Kenid Industries Limited informed the Official Receiver in writing indicating that it had written off the debt and would no longer interested in pursuing the Debtor herein.
7. Public Examination of the Debtor was finally done on 7th December 2012. The Debtor stated on oath that he had accrued the debts listed in List “A” – Unsecured Creditors annexed to the aforementioned Statement of the Affairs. The debt had accumulated to about Kshs 24,000,000/=. He testified that he had paid about Kshs 600,000/= and over Kshs 300,000/= to the Official Receiver towards the liquidation of the said debt.
8. The Debtor explained that he stayed in his son’s rented house and occasionally with his sister because he did not have a house. His wife passed away some time ago. He stated that he could not pay the outstanding debts because he did not currently have any source of income. He last paid the Official Receiver 2 months ago.
9. The Official Receiver asked that this Honourable Court do declare the Debtor bankrupt under Section 20 of the Bankruptcy Act and Rule 180 of the Bankruptcy Rules for the specified period that the court would deem fit because the Debtor had sought the orders and he had also failed to continue paying the monthly payments.
10. Upon hearing the Debtor’s Petition dated 15th May 2002 and pursuant to the Public Examination of the Debtor by the Official Receiver, I hereby direct that a Receiving Order do issue against the Estate of the said Debtor and copies thereof be sent to the office of the Official Receiver of the Government of Kenya and to all District Registries of the High Court.
11. Further, I hereby adjudge the Debtor bankrupt for a period of three (3) years whereupon the Debtor may apply for his discharge.
12. Orders accordingly.

J. KAMAU

JUDGE

DATED and DELIVERED at NAIROBI this 14th day of December 2012.