



REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA
AT NAIROBI (MILIMANI COMMERCIAL COURTS)
Bankruptcy Cause 129 of 2005

IN THE MATTER OF ALLAN NJAU GICHUHI
RULING

1. The Petitioner petitioned to be adjudged bankrupt and a receiving order was issued on 2nd November 2005, placing his estate upon the official receiver for management. The matter came up for public examination of the petitioner, he gave evidence regarding his own financial circumstances and how he fell into debts. The Petitioner is aged 55 years old, he testified that he is married to one Sarah Nduta who runs a small business. They have four children and two of them are in school. The third born is in college, and the last born is in secondary school.

2. The Petitioner claims that he is unemployed since he was retrenched from Cereals Board. They live in a house at Lenga Lenga Estate in Nakuru which the petitioner owns jointly owned with his wife. The Petitioner did not produce the title. He claims that the debt in question arose when a motor vehicle he used to own registration No. KAA 077 F Nissan Matatu was involved in an accident. Several people were injured, and they sued him and obtained judgment. His motor vehicle was insured by United Insurance which is currently under statutory management.

3. The creditors are now pursuing the Petitioner to recover their money but the petitioner has no money to settle the decrees, he does not have a bank account. His children are assisted with school fees by the Constituency Development Fund and good Samaritans. Since he filed the Petition, he attended a creditor's meeting before the official receiver, but only creditor attended. The creditors did not attend the public examination of the petitioner. There are several creditors who had disclosed.

4. After examining the Petitioner, I am of the view that the Petitioner should be given an opportunity to provide an composition or scheme of how he intends to satisfy the debts. The petitioner failed to provide documentary evidence regarding the house where he lives, there was also no evidence to show that the school fees of his children is paid by the CDF.

Accordingly I make the following orders:

1. **That the Debtor submits to the Official Receiver within 14**

days from the date hereof a proposal for a composition in satisfaction of his debts as provided for under section 18 of the Act and rule 160 of the Bankruptcy rules.

2. The Official Receiver shall within 30 days
 - (i) prepare a composition or scheme.
 - (ii) Arrange a meeting with Debtor and creditors for consideration of the proposal.
1. The Official Receiver shall then make the necessary application for the confirmation of the composition or scheme by the court within a reasonable time.
2. Receiving order to remain in force.

RULING READ AND SIGNED ON 30TH APRIL, 2010 AT NAIROBI

M. K. KOOME

JUDGE