

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI

(MILIMANI COMMERCIAL COURTS)

Bankruptcy Cause 15 of 2005

**RE: BERNANRD MWENDWA MUSAU
RULING**

RULING

1. A receiving order was issued on 15th March 2005, following a petition by the petitioner who sought to be adjudged bankrupt. His estate was placed upon the official receiver for its management. This matter came up for public examination and the petitioner was examined on 18th June 2010. He gave evidence regarding his personal circumstances and how he got into debts which led him to file this petition. The petitioner testified that he is aged 42 years old. He is married to Caroline Mwendwa and they have two children aged 9 and 2 years respectively, his wife is unemployed.

2. Before a receiving order was issued, the petitioner testified that he used to run a matatu business between Machakos and Makueni. The vehicle was involved in a road traffic accident in which the creditors were injured. He forwarded the claims to Stallion Insurance. Unfortunately the insurance company ceased to operate. The petitioner said he paid some claimants but at the moment he is unemployed and could not settle the debts, although he said he is trying to organize a portray farming business with the help of an NGO through which he hopes to repay the debt. At the moment he said he has no money to pay the debt but given time, he can provide a proposal.

3. None of the creditors appeared in court and they have also not attended a creditors meeting called by the official receiver. After examining the petitioner, this court is of the view that he should be given an opportunity to provide a scheme on how he intends to satisfy the debts.

Accordingly, I make the following orders.

- a) **The petitioner submits to the official receiver within 14 days a proposal of how he intends to satisfy the debts as provided for under section 18 of the Bankruptcy Act.**
- b) **The official receiver shall within 30 days, prepare a composition and arrange a meeting with the debtor and the creditors for the consideration of the proposal.**
- c) **The official receiver shall thereafter make the necessary application for confirmation of the composition or make a concurrence on whether the petitioner should be adjudged bankrupt.**
- d) **The receiving order shall remain in force.**

RULING READ AND SIGNED ON 25TH JUNE 2010 AT NAIROBI.

M.K. KOOME

JUDGE