

**REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA**

AT NAIROBI (MILIMANI COMMERCIAL COURTS)

Bankruptcy Cause 11 of 2010

JOHN N. LIBOYI PETITIONER

RULING

1. The Petitioner sought for a receiving order be made in respect of his estate. He filed a petition on 10th March 2010 and when the matter came up for hearing Kimaru J. made the following order:-

“I have perused the file in which the debtor wishes to secure indulgence from this court. It is clear that he debtor is abusing the process of this court. He has refused to place all the information necessary to enable this court exercise discretion in his favour. Unless the debtor avails proper accurate and detailed information of his financial status to the official receiver, no orders can be issued by this court.”

2. The debtor filed an affidavit sworn on 21st May 2010 . He has given the details of how he incurred a debt and a judgment was entered against him. The creditor is

St. John's College and the debt was in respect of school fees incurred for a child born out of wedlock. He proposes to pay the debt by paying Ksh.5,000/- per month. The outstanding debt is 1.350,000/-. He has given information regarding the place where he lives which is a house in Nairobi being Nairobi/Block 91146 which is registered in his name and his wife. He also annexed accounts for a company where he is a share holder and director called Information Professional Africa Limited. A bank statement for his personal account and that of the company.

3. The official receiver has also compiled a further interim report on the financial affairs of the petitioner. as a way forward the petitioner proposes to pay Ksh.150,000/- every three months because the petitioner's company has just won a contract to provide consultant services for Kenya Power and Lighting Company Limited. He annexed a copy of the contract which shows that the company will be earning periodical payment to be used to pay the debt. The petitioner's company has also been prequalified by Kenya National Highways Authority to provide ICT Consulting Services. Mr. Encok Mugere on behalf of the official receiver recommends that a receiving order be issued against the estate of the petitioner or the petition be fixed for hearing.

4. I have considered the order by justice Kimaru J and the further information that has been availed by the petitioner including the report by the official receiver. In the view of the financial circumstances reviewed especially the contracts that the petitioner is engaged in through his company it is not suitable to grant the receiving order that is sought . The petition should be served upon the creditors and steps be taken to fix it for hearing. It is so ordered.

RULING READ AND SIGNED ON 2ND JULY 2010 AT NAIROBI.

**M.K. KOOME
JUDGE**