



**REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA
AT NAIROBI (MILIMANI COMMERCIAL COURTS)**

Bankruptcy Cause 93 of 2003

GLADYS NJERI NDUATI.....DEBTOR

**AND
IN THE MATTER OF BANKRUPTCY ACT
R U L I N G**

1. A receiving order against the estate of the debtor was issued on 6th August 2003, following a petition by the debtor, who sought to be adjudged bankrupt. The estate of Gladys Njeri Nduati (here in after referred to as the debtor) was placed under the management of the official receiver of the Republic of Kenya. A meeting of creditors was convened and Amos Waithaka Maina presented prove of his debt in the sum of Kshs.1,387,216.85 arising out of a judgment in Nairobi High Court Civil case No. 4724 of 1992 AMOS WAITHAKA MAINA versus GLADYS NJERI NDUATI and 3 others.
2. During the public examination of the debtor, she testified that prior to filing this petition she used to run business of transporting meat using a motor vehicle she had purchased with a loan from National industrial Credit. The debtor had employed a driver; however the vehicle was taken away from the driver without her permission. It was reported missing, and the following day the debtor found it by the road side having been involved in an accident. Amos Waithaka claimed that he was injured while traveling in the vehicle. The creditor filled a civil suit and he obtained judgment against the debtor which she claimed she has been unable to pay since November 2000.
3. The Petitioner is aged 67 years she is unemployed, she lost her husband when the children were young. The three children are now grown up. Two of them are Advocates of this Court and another one is a Pilot with Kenya Airways. The Petitioner claims that she has no house of her own. She lives in the house of one of the children. During cross-examination she agreed that she had a motor vehicle reg. KAJ 694P which was bought for her by one of the sons. The vehicle was subsequently sold and although her children are well to do, they have their own obligations and they cannot be made to pay her debts. The debtor maintained that she had no money to satisfy the debt.
4. In this case the creditor proved the existence of his debt against the Petitioner. The debtor has not made any efforts whatsoever to pay this debt. I am not satisfied that the debtor was candid in her examination especially when she admitted that she was the owner of a motor vehicle KAJ 694P which was sold subsequent to this petition. After the public examination of the debtor, am of the view that she should be given an opportunity to provide a scheme of how she intends to settle the debt owed to the creditor. Accordingly I made the following orders:
 - a) **The Petitioner submits to the Official Receiver within 14 days a proposal of how she intends to satisfy the debt as provided for under Section 18 of the Act.**
 - b) **The Official Receiver shall within 30 days, prepare a composition and arrange a meeting with the debtor and the creditor for the consideration of the proposal.**
 - c) **The official Receiver shall thereafter make the necessary application for confirmation of the composition or enter a concurrence on whether the petitioner should be adjudged bankrupt.**
 - d) **The receiving order shall remain in force for twelve (12) months.**

RULING READ AND SIGNED ON

THE 24TH SEPTEMBER 2010.

M. K. KOOME
JUDGE