



**REPUBLIC OF KENYA  
IN THE HIGH COURT OF KENYA  
AT NAIROBI (MILIMANI COMMERCIAL COURTS)  
Bankruptcy Cause 123 of 2006**

**IN THE MATTER OF BANKRUPTCY ACT  
(CAP 53 OF THE LAWS OF KENYA)**

**RE: ROBERT KUMU KOMU**

**RULING**

The application Notice of Motion dated 6<sup>th</sup> February, 2008 is seeking orders:-

1. **THAT** this honourable court rescind the Receiving Order dated 7<sup>th</sup> November, 2006 made against the estate of the debtor ROBERT KUMU KOMU.
2. **THAT** this honourable court do grant any order or further orders or relief as it deems fit and just to grant in the circumstances.
3. **THAT** the debtor herein do pay the costs of this application.

The grounds cited on the face of the application are:-

1. **THAT** the debtor has is taking advantage of the Receiving Order to evade further litigation and repayments of his debts.
2. **THAT** the debtor fraudulently refused to disclose all of his properties and dealings to defeat justice.
3. **THAT** the debtor has failed to conduct his affairs and dealings as is required by the Official Receiver.

The application is supported by the supporting affidavit of **RHODA RUTTO** dated 6<sup>th</sup> February, 2008. I have considered the contents of this affidavit.

There is a replying affidavit of **ROBERT KUMU KOMU** the petitioner/Debtor, sworn on the 27<sup>th</sup> May, 2008. The gist of the replying affidavit is to show that the creditor in this matter has a stable salary and is employed while the petitioner is self-employed. The Petitioner also avers that the creditor has equal duty as parent of their child to take responsibility for the Child's needs.

The Petitioner also denies using Bankruptcy to either evade the court process or to pay his debts. M/s Kahura argued the application for the Official Receiver. The Petitioner did not appear for the hearing of the application despite service with a hearing notice.

I have considered application together with the affidavit in support and the replying affidavit. **Section 100** of the **BANKRUPTCY ACT** provides that once a Receiving Order is made, a Debtor should run his affairs in compliance with the Act.

I am satisfied that the application is merited in the circumstances and should be allowed. I have allowed the application dated 6<sup>th</sup> February, 2008 in the following terms:

1) The Receiving order issued by this court on the 7<sup>th</sup> November, 2006 be and is hereby rescinded forthwith.

Those are the orders of the Court.

**Dated at Nairobi this 20<sup>th</sup> day of June, 2008.**

**LESIT, J.**

**JUDGE**

***Read, signed and delivered in the presence of:***

N/A for Mrs. Kahuria for official receiver

N/A for Mr. Mugo for the debtor

**LESIT, J.**

**JUDGE**