



REPUBLIC OF KENYA



**In re Leonard Kipkoech Terer (Insolvency Cause E001 of 2025)  
[2025] KEHC 5874 (KLR) (8 May 2025) (Ruling)**

Neutral citation: [2025] KEHC 5874 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT KERICHO  
INSOLVENCY CAUSE E001 OF 2025**

**JK SERGON, J**

**MAY 8, 2025**

**(IN THE MATTER OF SECTION 32 AND 33 OF THE INSOLVENCY  
ACT 2015 AND RULE 18 OF THE INSOLVENCY REGULATIONS 2016)**

**IN THE MATTER OF  
LEONARD KIKOECH TERER ..... DEBTOR**

**RULING**

1. The debtor domiciled in Kericho County has moved this court vide a document unknown in law seeking to be adjudged bankrupt and a bankruptcy order in respect of his estate. The applicant filed a statement of affairs alongside the said document.
2. The above notwithstanding this court cannot give the orders sought as the debtors petition is non-compliant with the relevant provisions of law to wit the *Insolvency Act* CAP 53 Laws of Kenya and the Insolvency Rules.
3. Section 13 of the *Insolvency Act* provinces that; “Bankruptcy occurs when the Court makes an order in respect of a debtor adjudging the debtor bankrupt — (a) on the application of one or more creditors of the debtor made in accordance with section 17; or (b) on the application of the debtor made in accordance with section 32.” Section 32 of the *Insolvency Act* provides that;
  - “(1) A debtor may make an application to the Court for an order adjudging the debtor bankrupt only on the grounds that the debtor is unable to pay the debtor's debts.
  - (2) The Court may decline to deal with such an application if it is not accompanied by a statement of the debtor's financial position containing—
    - (a) such particulars of the debtor's creditors and of the debtor's debts and other liabilities and assets as may be prescribed by the insolvency regulations; and



- (b) such other information as may be so prescribed.
- (3) The Court may reject a statement of the debtor's financial position if of the opinion that it is incorrect or incomplete.
- (4) A debtor who makes an application under this section shall publish a notice of the application in—
  - (a) a newspaper circulating within the region in which the debtor ordinarily resides; and
  - (b) in such other publications (if any) as may prescribed by the insolvency regulations for purposes of this section.
- (5) The Court may decline to hear the application if subsection (4) has not been complied with to its satisfaction.”

3. Whereas Regulation 18 of the *Insolvency Rules* provides as follows;

- (1) An application for a bankruptcy order by the debtor shall be made by way of a bankruptcy petition and shall be in Form 10 set out in the First Schedule.
- (2) The petition shall be accompanied by the following documents —
  - (a) an affidavit to the petition which shall be in Form 8 set out in the First Schedule;
  - (b) statement of debtors financial position, which shall be called a “statement of affairs”, and shall be in Form 11 set out in the First Schedule; and © application for appointment of trustee which shall be in Form 9 of the First Schedule.

4. This Court has considered the application and is of the considered view that whereas it is undoubtedly, the imperative duty of the court to make a receiving order where the petition is a proper petition, the instant application by the debtor guised as a petition is defective in form and non-compliant with the procedure set out in the *Insolvency Act* and Rules and therefore undeserving of the orders sought.

5. Section 16 (2) of the *Insolvency Act* provides as follows; “the Court has a general power to dismiss a bankruptcy application or to stay proceedings on such an application on the ground that the Court is of the opinion that a requirement of this Part or the insolvency regulations has not been complied with in a material respect.”

6. Consequently, the instant application for bankruptcy order is hereby dismissed for material non-compliance with the *Insolvency Act* and Rules.

**DATED, SIGNED AND DELIVERED AT KERICHO THIS 8TH DAY OF MAY, 2025.**

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**J.K. SERGON**

**JUDGE**

In the presence of:

C/Assistant - Rutoh

No Appearance

