



REPUBLIC OF KENYA



KENYA LAW
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**Shimanyula v Al-Husnain Motors Limited (Insolvency Cause
E001 of 2024) [2025] KEHC 8664 (KLR) (20 June 2025) (Ruling)**

Neutral citation: [2025] KEHC 8664 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT ELDORET
INSOLVENCY CAUSE E001 OF 2024
JRA WANANDA, J
JUNE 20, 2025**

BETWEEN

THOMAS LEVI SHIMANYULA DEBTOR

AND

AL-HUSNAIN MOTORS LIMITED CREDITOR

RULING

1. By the Petition dated 28/11/2024 and filed in this matter through Messrs Oscar Wachilonga & Associates Advocates, the Debtor, describing himself as “lately residing at Eldoret town and having for the greater part of the 6 months resided in Eldoret and carried on business at Eldoret town within the jurisdiction of this Court”, sought a declaration for his own insolvency.
2. The Petitioner alleged that he is unable to pay his debts and prayed that he be adjudged bankrupt and a bankruptcy order be issued against himself, and also that his property do therefore vest in the Official Receiver. He listed several creditors to whom he owed debts and which included bank loans and Court decrees. Among the Court decrees he listed included one in favour of the current Applicant, Al Husnain Motors Limited, issued in Kakamega CMCC No. 409 of 2016 at the sum of Kshs 12,124,811/-. He also stated that the Applicant had obtained a warrant of arrest against him which could lead to his committal to civil jail and therefore prayed that all proceedings to recover the debts owed by him be stayed pursuant to Section 48(1) of the *Insolvency Act*.
3. Upon perusing the Application ex parte in the first instance, and satisfying myself that the Petitioner had obtained a Certificate of Compliance from the Official Receiver, I issued orders as follows:
 - “(i) Petitioner to comply with all other directions required under the *Insolvency Act*, including gazettelement. The Petitioner shall therefore liaise with the Official Receiver.



- (ii) To ensure compliance with the statutory timelines, I will have this matter mentioned before me on 14/01/2025 to ascertain progress.
 - (iii) In the interim, I grant prayer 2 and grant a stay of execution and proceedings”
- 4. On 14/01/2025 when the matter came up before me, Mr. Okongo, Counsel for the Applicant informed me that he had filed an Application, namely, the Notice of Motion dated 17/12/2024. I then gave directions on the hearing of the Application and on 20/02/2025 when the matter came up for compliance, I fixed the Application for Ruling.
- 5. It is evident that it is directive (iii) above, grant of interim stay of execution, that triggered the Application which is filed through Messrs Okong’o Wandago & Co. Advocates, and seeks orders as follows:
 - i. [.....] spent.
 - ii. [.....] spent.
 - iii. [.....] spent.
 - iv. The ex parte order issued pursuant to Section 48(1) of the Insolvency Act, staying all proceedings to recover the bankrupt’s debts and staying execution and proceedings and in particular the concluded proceedings in Kakamega Insolvency Petition No. E003 of 2024 and Kakamega CMCC No.409 of 2016 be stayed pending the hearing and determination of this Petition.
 - v. The ex parte order issued pursuant to Section 48(1) of the Insolvency Act, staying all proceedings to recover the bankrupt’s debts and staying execution proceedings be set aside, discharged and or otherwise vacated.
 - vi. The Applicant be awarded costs of this Application.
- 6. When I began writing the Ruling, I noticed that although the Petitioner had complied with the directive to publish the Notice of commencement of this Insolvency Cause in the media, there is no evidence that he served the Official Receiver. There is also no evidence that he also served the rest of the Creditors.
- 7. In the circumstances, and since the order staying execution of recovery of the debts cited by the Petitioner was merely interim in nature, before I conclude the Ruling, I direct as follows:
 - i. This matter shall be fixed for Mention and the substantive Ruling on the Application dated 17/12/2024 shall be deferred.
 - ii. The Petitioner shall within 7 days, serve the Official Receiver and all Creditors with the Mention Notice, the Petition, the extracted order issued on 2/12/2024 and also a copy of this Preliminary Ruling which shall be uploaded in the Judiciary Case Tracking System (CTS) online platform.
 - iii. The Petitioner shall, in the Mention Notice, expressly state that the Official Receiver and the said Creditors are at liberty to file Responses thereto within a period of 10 days after service, particularly on the issue of stay of execution.
 - iv. The Applicant shall also be at liberty to serve the Official Receiver and the other Creditors with the Pleadings filed herein, including its own Notice of Motion dated 17/12/2024.



- v. The interim stay orders are extended.
- vi. In the event of default in compliance with any of the above directives, the stay orders shall be liable to be discharged and/or vacated.

DELIVERED, DATED AND SIGNED AT ELDORET THIS 20TH DAY OF JUNE 2025

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WANANDA J. R. ANURO

JUDGE

Delivered in the presence of:

Mr. Wachilonga for the Petitioner

N/A for the Applicant-Creditor

Court Assistant: Edwin Lotieng

