



REPUBLIC OF KENYA



KENYA LAW
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Ngumbi t/a Yellowline Spares v Springtech (K) Ltd (Insolvency Cause E002 of 2024) [2024] KEHC 11767 (KLR) (3 October 2024) (Ruling)

Neutral citation: [2024] KEHC 11767 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT KISUMU
INSOLVENCY CAUSE E002 OF 2024
MS SHARIFF, J
OCTOBER 3, 2024**

BETWEEN

ALPHONCE MUTUA NGUMBI T/A YELLOWLINE SPARES DEBTOR

AND

SPRINGTECH (K) LTD RESPONDENT

RULING

1. The Petitioner Alphonce Mutua Ngumbi has vide a petition dated 1st October 2024 moved this court for orders that he be adjudged bankrupt for failure to pay his debts.
2. A notice of motion of even date has simultaneously been filed wherein the Petitioner craves for the following orders:
 - a) Certification of this application as urgent.
 - b) Stay of further proceedings in Kisumu CMCC No. E013 of 2023 pending the hearing and determination of this appeal.
 - c) The Petitioner be adjudged as bankrupt.
 - d) Costs of the application be provided for.
3. The notice of motion is supported by an affidavit of the Petitioner sworn on 1st October, 2024 wherein he states that he has received notice to show cause as to why he ought not be committed to civil jail due to his failure to pay the judgment sum of Kshs.5,623,524 in Kisumu CMCC No. E013 of 2013 and that he is to appear before the trial court on 7th October 2024 to show cause.
4. The Petitioner has deposed that whereas he used to operate a business christened Yellowline Spares Limited, the same closed down in the year 2018 due to financial crisis. Further that he does not own any land and lives in a rental whose rent is being paid by relatives, friends and well-wishers. On the



balance the Petitioner deposes that he has neither any source of income nor any immovable or movable assets wherefore he is unable to pay his debts, and a bankruptcy order ought therefore to issue.

5. I have considered the Petitioner's petition and I do find that the same is not accompanied by a statement of the debtor's financial position containing such particulars of the debtor's creditors and of his debts, and other liabilities and assets as prescribed by the insolvency regulations save for annexing the notice to show cause in Kismu CMCC No. E013/2023: Springtech (K) Ltd -vs- Alphonse Mutua Ngumbi T/A Yellowline Kisumu and a few copies of bank statements from Account No. 01009000502570 held at Sidian Bank in his own name.
6. The aforesaid attached documents do not meet the threshold of a statement of account of a debtor's financial position as envisaged under the *Insolvency Act* wherefore pursuant to the provisions of Section 32 (2) of the *Insolvency Act* CAP 53 Laws of Kenya I do hereby strike out the petition and the notice of motion dated 1st October 2024 for being fatally and incurably defective.
7. This file is marked as closed.

DELIVERED, SIGNED AND DATED THIS 3RD DAY OF OCTOBER, 2024.

M. S. SHARIFF

JUDGE

