



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA

AT NAIROBI

COMMERCIAL AND TAX DIVISION

INSOLVENCY CAUSE NO. 10 OF 2018

ASHWIN SHAH.....APPLICANT/CREDITOR

-VERSUS-

MUKESH HARA KHCHAND BID.....RESPONDENT/DEBTOR

RULING

1. Through the application dated 17th November 2020, the applicant seeks orders that:

- 1. That the Bankruptcy order issued on 2nd December, 2019 in respect of the Estate of Mukesh Harakhchand Bid be annulled and/or set aside.***
- 2. That the Receiving order issued in respect of the Estate of Mukesh Harakhchand Bid be annulled and/or set aside.***
- 3. That cost of the application be provided for.***

2. The application is premised on the following grounds: -

- 1. The Debtor in his Debtor petition dated 14th June, 2018 failed to include creditors with provable debts.***
- 2. The debtor has targeted, singled out and effectively discriminated against the Creditor Ashwin Shah, in so far as he failed to include all the other creditors of the debtor as is required by the applicable law.***
- 3. The debtor's petition does not meet the minimum threshold set out under Section 32 of the Insolvency Act, 2015 for the grant of bankruptcy order.***
- 4. At the time of granting the bankruptcy order, the prerequisites of making the order did not exist.***
- 5. The debtor's petition consist of material nondisclosure which goes to the root of the matter.***
- 6. The bankrupt should not have been adjudged bankrupt because of defect in form and/or procedure.***
- 7. The debtor us able to meet his financial obligations and has concealed part of his assets.***
- 8. The statement of affairs filed before this honourable court is not a true reflection of the debtor's financial status.***
- 9. The debtor failed and/or neglected to forward the matter to the official receiver for further processing despite the bankruptcy order issued on 2nd December, 2019 directing so.***
- 10. It is in the interest of justice that this application be allowed.***

3. The application was not opposed by the Debtor **Mr. Mukesh Harakchand Bid** despite service with the same as shown in the affidavit of

service dated 24th November 2020.

4. When the matter came up for mention on 26th November 2020, **Miss Sinana** for the applicant urged the court to allow the application in view of the fact that it had not been opposed.

5. I have considered the application dated 17th November 2020 and I am satisfied that it is merited. I therefore allow the application, as prayed, with no orders as to costs.

Dated, signed and delivered via Microsoft Teams at Nairobi this 3rd day of December 2020 in view of the declaration of measures restricting court operations due to Covid - 19 pandemic and in light of the directions issued by his Lordship, the Chief Justice on the 17th April 2020.

W. A. OKWANY

JUDGE

In the presence of:

Miss Sinana for Miss Ambalu for Applicant/Creditor.

Court Assistant: Sylvia