



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI

MILIMANI COMMERCIAL & ADMIRALTY DIVISION

BANKRUPTCY CAUSE NO. 9 OF 2015

IN THE MATTER OF BANKRUPTCY ACT, CAP 56 LAWS OF KENYA

RE: IN THE MATTER OF JOSEPH MATHU KIBE VERSUS

EX-PARTE: JOSEPH MATHU KIBE

JUDGEMENT

1. The petitioner lodged the instant petition on 2.3.2015 on the ground that he was unable to pay his debts and thus sought to be adjudged bankrupt.
2. The background of the matter is that he owned a lorry KAC 185 F in 1992 which was involved in fatal road traffic accident on 16.4.1992 resulting in demise of Patrick Mwangi Mbuthia (deceased).
3. A suit was thereafter lodged against him by the deceased widow Dina Tabitha Nguku on behalf of the deceased estate and an award of Kshs.1,685,245/- was made against Petitioner.
4. As at the time of lodging the instant petition, the decretal amount had escalated to Kshs.2,891,874 and counting/growing.
5. The Petitioner was unfortunate as he had insured the same motor vehicle under cover of Stallion Insurance which went under before paying the said claim.
6. The Petitioner is of poor health, unemployed and with no means to settle the same debt.
7. The matter came for hearing on 4.3.2016 and Mr. Wanyere represented the debtor and Mr. Osicho appeared for Official Receiver. The Petitioner testified and reiterated the above facts. He stated that he is married with 4 children. He used to work in the Military but now he is unemployed but does some casual work and sells second hand clothes. He is of poor health. He pays water and electricity bills. He gets a monthly pension of Ksh.4,000/=. He is unable to pay the debt arising from the award aforesaid as he has no other means of earning an income other than what he has stated above. He therefore sought to be declared bankrupt.
8. The Official Receiver has no objection to being appointed debtors/petitioner trustee. The statement filed on Preliminary Examination of a debtor filed on 16.3.2015 disclosed that the Petitioner total worth is Ksh.30,000/= and the debt was Ksh.2,891,974= as at May 2014. The aforesaid position is replicated in a statement of affairs dated 3.3.2015 and filed on 16.3.2015.
9. After going through the record and the Petitioner's testimony the court finds that the Petitioner has established the thresh hold of being declared bankrupt.
10. The court thus makes the following Orders;
 1. The Petitioner is adjudged bankrupt.
 2. The Official Receiver is appointed a trustee to the estate of the Petitioner.

3. No orders as to costs.
4. There be liberty to apply.

Dated, Signed and Delivered in Court at Nairobi this 8th day of April, 2016.

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C. KARIUKI

JUDGE