



REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA
MILIMANI LAW COURTS
COMMERCIAL AND ADMIRALTY DIVISION
BANKRUPTCY CAUSE NO 94 OF 2006

DAVID KIMATHI M'MAITIMA.....DEBTOR

JUDGMENT

1. The background of this cause is that the Petitioner, David Kimathi M'Maitima filed the Petition dated the 24th January 2006 on 1st August 2006. In the said Petition, he had sought orders that a Receiving Order be made in respect of his estate and that he be adjudged bankrupt.
2. In support of his Petition, the Petitioner filed a Declaration of His Inability to Pay Debts, Affidavit, Statement of Affairs, in which Lists "A- L" were attached, and a Certificate of Compliance all dated 24th July 2006. The Certificate of Compliance was dated 31st July 2006.
3. Upon hearing the said Petition on 3rd August 2006, the court ordered that a Receiving Order do issue against the Estate of the Debtor and copies thereof be sent to the office of the Official Receiver of the Government of Kenya thereof to all District Registries of the High Court.
4. The cause was fixed for Public Examination of the Debtor on several dates, that is on 24th September 2008, 4th November 2008, and 26th January 2011 and 1st August 2013 but the same did not take off. The Public Examination was finally conducted on 22nd November 2013.
6. The Debtor stated on oath that he was the debtor in this matter and that he lived in Meru Buuri District. He said that he was married to one (1) wife and had three (3) children aged 19 years, 14 years and 9 years who were school going children.
7. He averred that his Motor Vehicle Registration Number KAC 389K Isuzu had an accident in 1997 near Mater Hospital Nairobi. He said that the vehicle operated as a matatu on Route No 11 from South B to Central Business District and that he had employed a driver, by the name of John Mwenda when the accident occurred.
8. He stated that he reported the accident at Industrial Area Police Station and to Stallion Insurance who were his insurers at the material time. He paid the excess and the insurer took over the claim in the normal manner.
9. He added that the third parties who collided with his vehicle filed HCCC NO 3078/97 against him. The third party motor vehicle Registration No KAE 607X was owned by Oriental General Stores Limited. He stated that judgment was entered against him and his driver without his knowledge in March 2006 in the a sum of Kshs 2,466,911.30.
10. He said that at the material time of the accident, he was a Civil Servant, then at the Department of Defence where he worked as a Senior Clerical Officer but that he was retrenched in April 1998.

He contended that he had no property and that as his insurance company collapsed in 1997, he was unable to pay the said amount leading him to file the Petition herein. He, however, confirmed that no warrant of arrest had been issued against him.

11. He stated that there had been Debtor-Creditors meetings at Sheria House about three (3) times but the creditor did not attend. It was his contention that he had also come to court severally praying that the court adjudges him bankrupt.
12. The Official Receiver asked that this Honourable Court declare the Debtor bankrupt.
13. Upon hearing the Debtor's Petition dated 24th January 2006 and filed on 1st August 2006 and pursuant to the Public Examination of the Debtor by the Official Receiver on 22nd November 2013, I am satisfied that the Debtor's Petition is merited. I hereby adjudge the Debtor bankrupt for a period of five (5) years whereupon the Debtor may apply for his discharge.
14. Orders accordingly.

DATED and DELIVERED at NAIROBI this 14th day of March 2014

J. KAMAU

JUDGE