

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI

COMMERCIAL AND ADMIRALTY DIVISION AT MILIMANI LAW COURTS

BANKRUPTCY CAUSE NO 10 OF 2010

RE:-

ELIJAH KINYUMU MBUVI.....DEBTOR

ADJUDICATION OF BANKRUPTCY

Bankruptcy petition against self

[1] Mr Elijah Kinyumu Mbuvi filed this bankruptcy petition against himself for a declaration of his inability to pay his debts. The debtor was asked questions concerning his affairs and the causes of his failure to pay his debts by Mr Kamolo for KNUT, Machakos Branch. Mr Kiplangat for NSSF and the other creditors neither filed proof of debt as it had been ordered by the Court nor attended court for public examination of the Debtor on the appointed dates. The Debtor was also examined as to his conduct, dealings and property. And from the examination, it is clear the Debtor has no assets or properties and he is unable to pay his debts. He was not even able to make any proposal for a composition in satisfaction of the debts due to the creditors under the bankruptcy, or for a scheme of arrangement of the bankrupt's affairs.

[2] The court gave the creditors sufficient time to attend court and examine the Debtor but to no avail. That notwithstanding, the Court is satisfied and is of opinion that the affairs of the debtor have been sufficiently investigated, and declare that his examination is concluded. When the matter came up for further public examination of the debtor on 4.7.2014, the Official Receiver applied for the Debtor to be adjudged bankrupt as he had no property to repay his debts. The official receiver also informed the court that the Debtor is advanced in age and was ailing. The Debtor confirmed the submission by the Official Receiver and consented to his being adjudged bankrupt. I note the creditors have not met to pass resolution that the Debtor be adjudged bankrupt or otherwise, but since there is an express intimation by the debtor himself with the concurrence of the official receiver's consent to his being adjudged bankrupt, accordingly, the debtor is adjudged bankrupt pursuant to section 20 of the Bankruptcy Act. There is no evidence that the Debtor owns property or assets or that he fraudulently transferred any of his property in order to defeat the creditors' claims herein, therefore, the court will not issue any order for the property of the bankrupt to become divisible among his creditors, or vest in a trustee. Except, the Bankrupt or any other person or creditor shall be at liberty apply within 12 months for the discharge of this order of adjudication or for any other relief provided in law.

[3] Pursuant thereto, notice of the order adjudging the debtor bankrupt with full details of his name, residential and business addresses and description of the bankrupt, and the date of the adjudication, shall be gazetted in the prescribed manner, and the date of the order shall, for the purposes of this ruling, be the date of the adjudication herein.

Dated, signed and delivered in open court at Nairobi the 10th day of July 2014

F. GIKONYO

JUDGE