



**REPUBLIC OF KENYA**  
**IN THE HIGH COURT OF KENYA**  
**AT NAIROBI**  
**MILIMANI COMMERCIAL & ADMIRALTY DIVISION**  
**BANKRUPTCY CAUSE NO. 102 OF 2005**  
**IN THE MATTER OF THE BANKRUPTCY ACT**  
**(CAP 53 OF THE LAWS OF KENYA)**

**DAVID KIMITI GICHERO.....DEBTOR**

**J U D G E M E N T**

1. The Petitioner filed a Petition herein dated **19<sup>th</sup> September 2005** praying for an order of Bankruptcy. On **3<sup>rd</sup> October 2005**, a Receiving Order was issued against the estate of the said Debtor. On **1<sup>st</sup> November 2013** the Public Examination Hearings was conducted and the typed proceedings were read to the Debtor in court on **15<sup>th</sup> November 2013**

2. The Debtor testified that he is 73 years old, and married to Janet Wanjiru Kimiti. They have 5 girls who are all married. In 2005 the Petitioner had a matatu KYR 384 operating Nyeri – Nyahururu. It was insured with United Insurance. The vehicle had an accident and many people were injured. They sued the Petitioner. The suits were successful but the Petitioner had no money or property to pay the suits. His children do not work. Only one is a teacher in primary school. His debt is Kshs.606,202/=, and he no way of paying the same. The Petitioner is aware that United Insurance Company went under but that it is being revived. In his view, the Insurance Company should pay his debt. He said he is a sick man suffering from diabetes and hypertension. He has no way of paying the debt. He wished to be declared and adjudged bankrupt.

3. The Creditor has to date paid Kshs.4,000/= to the Official Receiver towards the payment of the Debtor. However, he is clearly unable to do more. The Creditors have never come to court despite being served with the Notice of these proceedings. I get the impression that the Creditors have lost interest in this matter.

4. Pursuant to the foregoing I am satisfied that the Debtor is unable to pay his debts, and should be declared bankrupt by this court. The Debtor testified that he understands what it means to be declared bankrupt, including the fact that he can never hold a public office or be a director of a company or carry with him more than Kshs.100. In spite of his above knowledge the Debtor is prepared to be declared bankrupt.

5. Being satisfied that the Petitioner is indeed unable to pay his debts., I herewith enter Judgement as follows:-

***a. The Petitioner is herewith declared bankrupt.***

***b. The order of bankruptcy is for initial period of five (5) years after the expiration of which it can be reviewed.***

***c. I appoint the Official Receiver the Receiver in Bankruptcy of the estate of the Debtor.***

***d. The Kshs.4,000/= paid by the Debtor shall be released to the Creditors in equal portion.***

***e. The Petitioner should be at liberty to apply for the discharge of this order earlier than the said 5 years should need arise.***

That is the Judgement of the court.

**DATED, READ AND DELIVERED AT NAIROBI THIS 4<sup>TH</sup> DAY OF JULY 2014**

**E. K. O. OGOLA**

**JUDGE**

**PRESENT:**

No appearance for Debtor

M/s Osicho for Official Receiver

Teresia – Court Clerk