

REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA
AT NAIROBI (NAIROBI LAW COURTS)

Bankruptcy Cause 14 of 1989

IN THE MATTER OF: - THE BANKRUPTCY ACT, CAP 53 LAWS OF KENYA

AND

IN THE MATTER OF PAUL JOSEPH NGEI

ORDER OF THE COURT

Paul Joseph Ngei who was adjudged bankrupt on the 14th June, 1990 has applied to this court to be discharged from bankruptcy.

The application was heard partly by Shields J who directed the bankrupt to deposit Ksh.1 million.

When the application came for hearing before me, as Shields J had now retired, the counsel for the Official Receiver, Mrs. Gachegu submitted further that out of the money paid, the Official Receiver should be able to pay debts of the unsecured creditors after declaring a small dividend. However, she lamented that there were 2 secured creditors who have not been paid.

The advocates appearing for the said 2 creditors made submissions from the bar which suggested that their clients, Continental Credit Finance Ltd, and Pan African Bank Ltd, who had opted to collect their debts by themselves, have not realized their securities because of obstruction by the bankrupt. As a result, their debts still owing.

I perused the court file, but found no evidence by way of affidavit or otherwise on the allegations of obstructions by Mr.Ngei, apart from the statement by the 2 lawyers.

Since this is a fact which is bound to affect the outcome of the application for discharge, I find that it is only fair and just to direct the two creditors to file affidavits setting out the allegations of obstruction by Mr. Ngei, which has resulted in the secured creditors failure to sell his properties and realize their securities and payoff their debts. Mr. Ngei should in turn have an opportunity to reply to the allegations, which he has not done so far.

I is only after this that the court will be in a position to make a decision whether to discharge Mr. Ngei from bankruptcy or not.

The affidavit should be filed within 14 days from today and the debtor, Mr. Ngei, should file his reply, if any by 23.1.1995.

The application will then be mentioned on 23.1.1995, for further orders.

These are orders of the court.

Dated at Nairobi this 20th day of December, 1994

JOYCE ALUOCH (MRS)

PULSNE JUDGE.