



REPUBLIC OF KENYA



**Fincorp Credit Limited v Techspa General Supplies Limited (Insolvency Petition E020 of 2024)  
[2026] KEHC 3008 (KLR) (Commercial and Tax) (26 February 2026) (Judgment)**

Neutral citation: [2026] KEHC 3008 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT NAIROBI (MILIMANI LAW COURTS)  
COMMERCIAL AND TAX  
INSOLVENCY PETITION E020 OF 2024  
MA OTIENO, J  
FEBRUARY 26, 2026**

**BETWEEN**

**FINCORP CREDIT LIMITED ..... PETITIONER**

**AND**

**TECHSPA GENERAL SUPPLIES LIMITED ..... RESPONDENT**

**JUDGMENT**

1. The Petitioner, Fincorp Credit Limited, a licensed micro-finance institution, filed a Creditor's petition against Techspa General Supplies Limited under sections 384 and 424(e) of the *Insolvency Act* 2015, seeking the liquidation of the company on grounds of inability to pay its debts.
2. It was stated that the Respondent obtained several loan facilities from the Petitioner between 18/6/21 and 7/3/23, comprising Kshs. 1,010,300 for a performance bond cash cover, Kshs. 1,000,000 for working capital, Kshs. 1,100,000 for working capital, and a further Kshs. 200,000, which facilities were duly advanced. The Respondent subsequently defaulted in repayment and, as at 15/11/23, owed the Petitioner Kshs. 6,062,217.57.
3. The Petitioner averred that repeated demands for payment were made without success. A statutory demand dated 18/12/23 was served upon the Respondent by email, requiring payment within 21 days. The demand was neither challenged nor complied with, and the debt remained outstanding beyond the statutory period.
4. It was contended that by reason of the failure to satisfy the statutory demand, the company was deemed unable to pay its debts and was therefore insolvent, rendering it just and equitable for the court to order its liquidation.



5. The Petitioner accordingly prayed for orders that the company be liquidated by the court, that the official receiver be appointed as provisional liquidator, that the costs of the petition be paid out of the company's assets in priority, and for such further orders as the court deemed fit.
6. In support of its petition, the Petitioner filed written submissions dated 10/10/2025.
7. The Petitioner submitted that it served a valid statutory demand on 18/12/23 for Kshs. 6,062,217.57 pursuant to section 384(1)(a) of the *Insolvency Act* (the Act), and that the Respondent neither paid, secured, nor applied to set aside the demand within 21 days. Further that the petition was thereafter filed, gazetted and served in compliance with the Act and Insolvency Regulations (the regulations). The Petitioner argued that such compliance was sufficient to found a Creditor's petition and shifted the burden to the Respondent to demonstrate a genuine dispute or solvency.
8. On insolvency, the Petitioner submitted that non-compliance with the statutory demand created a presumption that the Respondent was unable to pay its debts. It was asserted that the Respondent offered no payment, proposal, or financial evidence to rebut that presumption, and was therefore deemed insolvent as a matter of law.
9. On reliefs sought, the Petitioner argued that once the statutory prerequisites were satisfied and no bona fide defence or special circumstances were shown, the court ought to exercise its discretion in favour of liquidation.
10. At the time of writing this judgement, the Respondent had not filed any pleadings or submissions in opposition to the petition despite proof of service upon it and/or its advocate.

#### **Analysis and determination**

11. The background of this dispute is that the Petitioner extended four loan facilities to the Respondent. The first one was a loan facility of Kshs. 1,010,300/-, the second one was worth Kshs. 1,000,000, the third one was worth Kshs. 1,100,000, and the fourth one was a loan facility of Kshs.200,000/-. The Petitioner produced letters of offer as evidence of the loans advanced.
12. The record indicates that the Respondent defaulted on payment of the four loan facilities, which led the Petitioner to demand payment of the outstanding amounts. However, the Respondent did not satisfy the same.
13. Consequently, on 18/12/2023, the Petitioner served a statutory demand of Kshs.6,062,217.57 upon the Respondent's advocates. Despite this, the Respondent did not satisfy the demand, which led the Petitioner to file the present petition seeking a court order to liquidate the Respondent.
14. Section 384(1)(a) of the *Insolvency Act*, 2015, provides that: "A Company is deemed unable to pay its debts if a Creditor to whom the Respondent is indebted in a sum exceeding one hundred thousand shillings has served a demand requiring payment within twenty-one days and the Respondent has neglected to pay or secure the sum."
15. In the case of *Re Pasaiba Tourmaline Limited* [2024] KEHC 5351 (KLR), Mugambi J held:
  - " 11. . The applicant further avers that the filing of the petition was motivated by bad faith with the intention of tarnishing the applicant's reputation.
  12. Under the *Insolvency Act*, a Creditor (including judgment Creditors such as the Respondent) has the right to initiate insolvency proceedings against a debtor if the debtor is unable to pay its debts. The Act outlines the definition of inability



to pay debts, which includes situations where a debtor fails to satisfy a statutory demand for a debt exceeding the prescribed threshold within the specified period or where execution or other process issued on a court judgment in favor of a Creditor is returned unsatisfied in whole or in part.”

16. In this case, based on the evidence adduced, which has not been challenged, the Respondent is indebted to the Petitioner due to unpaid loans that were advanced to it.
17. A statutory demand dated 18/12/2023 was sent to the Respondent’s advocates through an email dated 19/12/2023. The same was annexed to the petition before the court.
18. Under the Act, a debtor is unable to pay his debts where he fails to satisfy a statutory demand within the specified period. In this case, the Respondent was duly served with the statutory demand, but it did not respond to it nor did it pay the demanded amount.
19. Section 384(1)(a) of the *Insolvency Act* provides that a company is deemed unable to pay its debts if it fails to satisfy a statutory demand within twenty-one days. Section 424(e) further empowers the Court to order liquidation where it is just and equitable to do so.
20. The evidence before this Court demonstrates that the debt is due, owing, and undisputed. The Company has neither paid nor offered any credible defence. The statutory demand has lapsed without compliance. The presumption of insolvency under Section 384 is therefore triggered.
21. The Court is satisfied that the Company is unable to pay its debts and that it is just and equitable to order liquidation. The Petitioner has met the statutory threshold for relief.
22. Accordingly, the Court makes the following orders:
  - i. Techspa General Supplies Limited is hereby liquidated under the provisions of the *Insolvency Act*, 2015.
  - ii. The Official Receiver is appointed as the Provisional Liquidator of the Company forthwith.
  - iii. The costs of this Petition shall be borne by the Company and paid out of its assets in priority.
  - iv. The Provisional Liquidator shall take immediate steps in accordance with the *Insolvency Act* to secure and realize the assets of the Company for the benefit of creditors.
  - v. Liberty to apply is granted to the parties.
23. It is so ordered.

**SIGNED, DATED, AND DELIVERED IN VIRTUAL COURT THIS**

**26<sup>TH</sup> FEBRUARY 2026**

**ADO MOSES**

**JUDGE**

In the presence of: -

C/A – Moses

Ms. Gitari.....for the Advocate/Applicant

N/A.....for the Respondent

