



**In re Bowen (Petitioner) (Insolvency Cause E038 of 2022)
[2026] KEHC 2692 (KLR) (Commercial and Tax) (12 February 2026) (Ruling)**

Neutral citation: [2026] KEHC 2692 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT NAIROBI (MILIMANI COMMERCIAL COURTS)
COMMERCIAL AND TAX
INSOLVENCY CAUSE E038 OF 2022
JWW MONG'ARE, J
FEBRUARY 12, 2026
IN THE MATTER OF JEREMIAH KOSKEI BOWEN**

RULING

Introduction and Background

1. On 13th February 2025, the court delivered a ruling in which it declined to adjudge Jeremiah Koskei Bowen (“the Petitioner”) bankrupt and struck out his petition for being an abuse of the court process. The Petitioner has now filed the application by way of the Notice of Motion dated 13th February 2025 seeking to review and set aside the ruling, stay execution proceedings including arrest and committal to civil jail and that a bankruptcy order be issued against him.
2. The application is supported by grounds on its face and the supporting affidavit of the Petitioner sworn on 13th February 2025. It is opposed by various creditors including ASHA HASHE DORE and MICHAEL K CHEMWOK t/a Messrs. Chemwok & Co. Advocates who swore replying affidavits on 21st March 2025 and 6th March 2025 respectively. The Petitioner and the creditors have also filed written submissions in support of their respective positions and together with the pleadings I have considered the same and I will be making relevant references to them in my analysis and determination below.

Analysis and Determination

3. From the parties’ submissions, the only issue for determination is whether the court should set aside its orders of 13th February 2025 and issue a bankruptcy order against the Petitioner. The principles governing the exercise of discretion to review a decree or order are now settled. Under section 80 of the *Civil Procedure Act* and Order 45 of the Civil Procedure Rules, an applicant is required to show either that there was an error apparent on the face of record or that there has been discovery of new and important matter which was not available despite the exercise of due diligence or for any other sufficient reason for the court to review.



4. The Petitioner's application is anchored on an apparent error on the face of the record of the ruling. The Court of Appeal in *National Bank of Kenya Limited v Ndungu Njau* [1996] KLR 469 explained what constitutes an error of law apparent on the face of the record and the scope of review:

A review may be granted whenever the court considers that it is necessary to correct an apparent error or omission on the part of the Court. The error or omission must be self-evident and should not require an elaborate argument to be established. It will not be a sufficient ground for review that another Judge could have taken a different view of the matter. Nor can it be a ground for review that the Court proceeded on an incorrect exposition of the law and reached an erroneous conclusion of law. Misconstruing a statute or other provision of law cannot be ground for review.

5. The Petitioner states that in a ruling dated 15th February 2023, the court (Chepkwony J.) found that he had complied with all requirements of the *Insolvency Act* except for publishing his petition in the Kenya Gazette. That the court gave him 14 days to comply and then "move the Court for appropriate Orders." The Petitioner claims that he complied by publishing the notice in the Gazette in March 2023 but due to administrative delays of the Judge being transferred, he was only able to file a formal application for the bankruptcy order on 20th February 2024. However, in a ruling on 13th February 2025, this court dismissed his application for reasons that he had failed to attach his Statement of Financial position and was guilty of material non-disclosure for not revealing a previous, failed bankruptcy petition from 2019.
6. The Petitioner states that this ruling contains fundamental errors as it contradicts the binding orders of the February 2023 ruling, which had already confirmed his compliance with all other aspects of the law, that the claim that the Statement of Financial Position was missing is factually wrong, as it was annexed to the application, that he was not obligated to disclose the 2019 petition because it was struck out for non-compliance and the law does not bar him from filing a fresh, compliant petition. He maintains this was not material non-disclosure but a separate, failed attempt.
7. The Petitioner states that as a result of the dismissal he faces imminent arrest and committal to civil jail for debts he claims he is unable to pay, which defeats the purpose of bankruptcy protection.
8. In response, the creditors state that the application it is an afterthought, filed only after an unfavorable ruling, and is intended to delay the creditors from enjoying the fruits of their judgments. They contend that the Petitioner's claim of an inability to pay is false and unsubstantiated, that he has actually amassed wealth and unjustly enriched himself to the detriment of the creditors and that his failure to disclose his true assets is evidence of his lack of good faith. The creditors assert that they will suffer grave injustice and extreme prejudice if his application is allowed, as it will further delay the lawful decrees against the Petitioner. For these reasons, they pray for the Petitioner's application to be dismissed with costs, as it is frivolous, vexatious, and without merit.
9. As stated in *National Bank of Kenya Limited* (supra), an error must be self-evident and not require an elaborate argument to be established. Going through the application, the responses and the submissions, I am inclined to agree with the Petitioner that there is an error apparent on the face of the record within the statutory confines and established authorities. The court dismissed the application on a technical oversight, but on substantive grounds that the Petitioner failed to provide a statement of his financial position and was guilty of material non-disclosure. The Court notes that this had been done prior to the filing of the present petition and the Court in its determination failed to take note accordingly that indeed the Petitioner had fully complied with the *insolvency Act* and caused the



Petition to be published in compliance thereof. The court is satisfied that the present application has merit and will allow the same.

Conclusion and Disposition

10. In summary, I find that the Petitioner has made out a case for review of the ruling delivered by the court on 13th February 2025. The same is allowed and the said ruling is set aside and vacated. Subsequently, the Petition filed by the Applicant seeking to have him declared bankrupt is allowed and the following consequential orders are issued.
 - i. The Applicant is adjudged Bankrupt.
 - ii. The official Receiver is appointed forthwith to receive the estate of the Applicant.
 - iii. Costs of this application and the Petition shall be borne by the estate of the Applicant.

DATED SIGNED AND DELIVERED VIRTUALLY AT NAIROBI THIS 12TH DAY OF FEBRUARY 2026

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J.W.W. MONGARE

JUDGE

In the Presence of

1. Mr. Edeyo holding brief for Mr. Angichi for the Applicant.
2. Mr. Wanjala for the 1st Creditor.
3. Mr. Kitivo for the 2nd Creditor.
4. Ms. Terer for the 3rd Creditor.
5. Ms. Lihanda holding brief for Mr. Chemwok for the 4th Creditor.
6. Mr. Mwangi for the 8th Creditor.
7. Amos - Court Assistant

