



**Bukoshe v Republic (Miscellaneous Criminal Application
E003 of 2024) [2024] KEHC 412 (KLR) (25 January 2024) (Ruling)**

Neutral citation: [2024] KEHC 412 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT KISUMU
MISCELLANEOUS CRIMINAL APPLICATION E003 OF 2024
RE ABURILI, J
JANUARY 25, 2024**

BETWEEN

SUSAN OMBUNYA BUKOSHE APPLICANT

AND

REPUBLIC RESPONDENT

(Arising from Kakamega High Court Misc. Criminal Case No. E060 of 2023)

RULING

1. I have considered the Notice of Motion dated 29th November 2023 which was filed *vide* Kakamega High Court Misc. Criminal Case No. E060 of 2023 and transferred to this court.
2. I observe that the Applicant seeks for stay of proceedings and further hearing of the suit in Mumias Senior Principal Magistrate's Criminal Case No. 207 of 2020 pending hearing and determination of this application and also asks the court to pronounce itself on the significance, import and effect of Bankruptcy Cause No. 8 of 2014 following the receiving orders of 16th December 2014 and issue appropriate directions as to whether the Applicant should be exempted from being subjected to ordinary criminal or civil litigation other than the processes prescribed under the [Bankruptcy Act](#).
3. The Applicant also seeks for review of the criminal charges preferred against her in Mumias Senior Principal Magistrate Criminal Case No. 207 of 2020 with a view to quashing the same or grant an alternative relief.
4. She deposes and provides the grounds upon which the application is predicated stating that she was charged with several offences of obtaining by false pretence and issuing bad cheques following complaints from others and creditors quoted in the Bankruptcy Cause.



5. That she was issued with receiving orders on 16th December 2014 because the complainants opted to pursue her personally instead of Balm Kenya Foundation, an NGO of which she is an Executive Director.
6. That she feels the charges facing her are civil in nature not criminal and she informed the trial court which does not appreciate the import and effect of Receiving orders against her. She has annexed copy of the receiving order, charge sheet, ruling in the Bankruptcy Cause No. 4 of 2014 setting her free from civil jail orders among other documents.
7. I note that apart from the Bankruptcy Cause being Gazetted on 27th November 2020, the Receiving Order of 16th December 2014 was never published in the Kenya Gazette and this was noted and observed by T. W. Cherere J *vide* HC Misc. Application No. 46 of 2019 wherein the Applicant herein sought similar orders as the ones herein vide an application dated 23rd October 2019 which was dismissed on 30th January 2020.
8. The Applicant then came back to this court vide Bankruptcy Cause No. 8 of 2014 seeking the same orders and on 25th October 2023, this court struck out her application similar to this one here, dated 12th October 2023.
9. She then went to Kakamega High Court seeking similar orders vide Kakamega High Court Criminal Misc. Application No. E060 of 2023 which file was transferred to this court to be considered in the Bankruptcy proceedings.
10. No doubt, the Applicant is a forum shopper and has decided to move from court to court seeking the same orders which are rejected by the other courts. She was advised to approach the office of Official Receiver for advise on how to manage her affairs but she has not heeded the advise.
11. With a receiving order on her head, she cannot litigate in her own name and on her own and neither can she apply for stay of criminal proceedings. She has never caused the Receiving Order to be Gazetted.
12. The application dated 29th November 2023 is found to be incompetently filed. It is struck out with no orders as to costs.
13. Applicant to be notified.
14. This Ruling to be send to Senior Principal Magistrate Mumias Law Courts.
15. This file is closed.
16. I so order.

DATED, SIGNED AND DELIVERED AT KISUMU THIS 25TH DAY OF JANUARY, 2024

R. E. ABURILI

JUDGE

