



REPUBLIC OF KENYA

ELEVENTH PARLIAMENT - (FIRST SESSION)

THE NATIONAL ASSEMBLY

PETITIONS

**CONVEYANCING OF A PETITION REGARDING THE ENFORCEMENT OF
A COURT ORDER IN WINDING UP CASE NO.10 OF 1987**

*Petition presented on
Tue Aug 6, 2013*

PARLIAMENT
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Honourable Members

Standing Order 225(2) requires the Speaker to report to the House, any petition to the Assembly other than those presented through a Member.

I therefore wish to convey to the House that my office has, through the Clerk's office, received a petition regarding **Enforcement of a Court Order in Winding Up Case No 10 of 1987**. The Petition drawn on 5th April, 2013 is addressed to the Clerk, National Assembly and is signed by the Petitioner, **Mr. Adam Kingori Mwangi** praying that the National Assembly:-

- a) conducts an investigation on the status of implementation of the Court Order directing that the dissolution and release in winding up cause be stayed until the amount of Kshs 140,000 together with the interest therein from 1986 be paid to the petitioner.
- b) to compel the Attorney General to comply with the Court Order .

Hon. Members,

This Petition therefore shall stand committed to the Departmental Committee on Justice and Legal Affairs for consideration. Pursuant to Standing Order 227(2), the Committee is required to consider the Petition and Report its findings within 60 days.

Thank you!

**THE HON. DR. JOYCE LABOSO, MP
DEPUTY/SPEAKER OF THE NATIONAL ASSEMBLY**

August 6, 2013

PETITION

FOR ENFORCEMENT OF A COURT ORDER IN WINDING UP CASE NO 10 OF 1987 ISSUED BY LADY JUSTICE J. KHAMINWA GIVEN ON 17TH MARCH 2009 DIRECTING THE DISSOLUTION AND RELEASE IN WINDING UP CASE BE STAYED UNTIL THE AMOUNT OF KSHS. 140,000 TOGETHER WITH INTEREST BE PAID TO THE APPLICANT.

I, the undersigned, a citizen of Kenya and resident of Makuyu region.

DRAW the attention of the House to the following;

THAT the Petitioner, Mr. Adam King'ori Mwangi, deposited one hundred and forty thousand Kenya shillings (140,000) with Pioneer building, Thika Branch on July 18, 1986 for a period of 12 months at an interest rate of 15.75%. The petitioner was issued with Certificate No. 0167.

THAT subsequently, Pioneer Building Society collapsed in 1987.

THAT the court appointed the Official Receiver as the liquidator for the affairs of the Society

THAT on October 17, 2007, the advocates for the Official Receiver and Provisional Liquidator issued a notice in the Daily Nation of intention to apply for order for release and dissolution of Pioneer building Society (in liquidation) and invited any objections within twenty one (21) days.

THAT the PETITIONER then filed an application dated November 15, 2007 in Court being Nairobi High Court Winding Up Cause No 10 of 1987, objecting to the orders for release and dissolution of the Society.

THAT on February 18, 2007 the Official Receiver and Provisional Liquidator's advocate filed an objection to the PETITIONER's application.

THAT the Court on March 17, 2009 gave an order staying the dissolution and release of any money until the PETITIONER's deposit of Kshs. 140,000 together with interest from 1986 was paid.

THAT in June 2009, the PETITIONER lodged a complaint with the Public Complaints Standing Committee now Commission on Administrative Justice seeking intervention due to the delay and/or failure by the Official Receiver and Provisional Liquidator to comply with the court order.

THAT the PETITION is premised on the court order of March 17th 2009 instructing the Official Receiver and the Provisional Liquidator to stay the release and dissolution until the PETITIONER's deposit is paid with interest. The Attorney General and all other Government agencies have not assisted the PETITIONER in this matter despite request for intervention.

THAT, the Official Receiver and Provisional Liquidator disputed the authenticity of the court order and wrote to the Deputy Registrar, Milimani Law Courts seeking confirmation of the same.

THAT the Deputy Registrar confirmed the order is genuine.

THAT the Official Receiver and Provisional Liquidator argued that the Petitioner had been paid Kshs. 58,867.85 being the first and second dividend paid to all other depositors, therefore termed his objection to the orders for release and dissolution as unfounded.

THAT this matter has been ongoing since 1987 which negates the right to administrative action that is efficient, procedurally fair and expeditious

THAT the PETITIONER confirms that the issues in respect of which the petition is made are not pending before any court of law, constitutional or legal body.

THAT the order of payment issued by the Court has never been challenged.

THEREFORE your humble petitioner **PRAYS** that Parliament;

- i) Through the Committee on Justice and Legal Affairs summons the Attorney General to explain why the court order directing that the herein be paid a sum of Kshs. 140,000 and interest has not been complied with.
- ii) Directs the Attorney General to ensure that the payment as per the court order is made to the herein within a reasonable time to be determined by Parliament
- iii) Makes any other order and /or direction that it deems fit in the circumstances of the case.

And your PETITIONER will ever pray.