



**FOK v JM (Minor Suing through her Mother JK) (Civil Appeal
E006 of 2023) [2023] KEHC 17862 (KLR) (30 May 2023) (Ruling)**

Neutral citation: [2023] KEHC 17862 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT KABARNET
CIVIL APPEAL E006 OF 2023
RB NGETICH, J
MAY 30, 2023**

BETWEEN

FOK APPELLANT

AND

JM (MINOR SUING THROUGH HER MOTHER JK) RESPONDENT

RULING

1. The appellant/applicant Francis Ole Kimiti filed Memorandum of Appeal dated April 3, 2023 on April 4, 2023 following ruling delivered on March 16, 2023 by Hon. R. Koech, SPM Eldama Ravine Court.
2. In the said ruling, the trial Magistrate directed that the appellant be remitting Kshs.10,000/= every month towards upkeep of the minor herein named J.K.
3. In the order issued on March 16, 2023, the trial Magistrate directed that the monthly upkeep be deducted from appellant's salary to Eldama Ravine Court deposit account by Director General Kenya Revenue Authority.
4. Together with the appeal, the appellant filed application dated April 3, 2023 under Certificate of Urgency seeking to stay the ruling/order pending this appeal.
5. On April 19, 2023 I directed that the respondent be served with the application herein.
6. On 30/5/2023 the applicant's Advocate indicated that the respondent was served but no response has been filed.
7. I have perused affidavit of service filed and note that at the respondent's Advocate was served via e-mail on 24/4/2023. No response has been filed.



8. The appellant's/applicant's Advocate has informed court that his client is willing to pay Ksh. 5000/= via Mpesa to the respondent. He is opposed to deductions being done from his salary. Counsel also indicated that the applicant is living in appellant's house and the appellant is paying school fees for the minor in addition to maintaining his 10 other children.
9. No response has been filed to enable the court ascertain the assertions by the appellant/applicant.
10. In view of the urgency of the matter I will allow Prayer 2 of the application on condition that the appellant pays Kshs 5000/= monthly for upkeep of the minor herein with effect from May 5, 2023.

Final Orders:-

11.

1. Order issued on March 16, 2023 is hereby stayed pending hearing and determination of this application.
2. The applicant/appellant to make monthly payments of Kshs.5000/= monthly to the respondent for upkeep of minor with effect from May 5, 2023 and 5th of every other succeeding month.
3. Failure to comply with order 2 above, order 1 to remain discharged.

RULING DELIVERED, DATED AND SIGNED VIRTUALLY AT KABARNET THIS 30TH DAY OF MAY 2023.

.....

RACHEL NGETICH

JUDGE

In the presence of:

Mr. Kemboi- Court Assistant.

Mr. Njiri for Appellant.

No appearance for the Respondent.

