



**SM & another v LA & another (Civil Appeal E065 of 2023)
[2023] KEHC 25689 (KLR) (24 November 2023) (Judgment)**

Neutral citation: [2023] KEHC 25689 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT KITALE
CIVIL APPEAL E065 OF 2023
AC MRIMA, J
NOVEMBER 24, 2023**

BETWEEN

SM 1ST APPELLANT

IM 2ND APPELLANT

AND

LA 1ST RESPONDENT

EA 2ND RESPONDENT

(Being an appeal from the ruling and order by Hon. T. O. Omono, Resident Magistrate in Kitale Chief Magistrate's Court Children's Case No. 40 of 2023 delivered on 2nd October, 2023)

JUDGMENT

1. This is an appeal against an interlocutory ruling made in Kitale Chief Magistrates Children's Case No 40 of 2023. The subject ruling was on the custody of a minor.
2. Given the nature and urgency in this matter, this Court waived all the procedural requirements in hearing of appeals, including the filing of a formal Record of Appeal, and directed parties to argue the appeal pronto.
3. Parties filed written submissions wherein some decisions were referred to.
4. This Court has carefully considered the appeal, the record before the trial Court, the written submissions, the decisions therein and the law.
5. Due to immense pressure of work on the part of the Court and the urgency in this matter, this Court will render the final determination of this appeal herein and it shall give its reasons thereto within 7 days of today.



6. Having said as much, the appeal herein is determined as follows: -

- a. The appeal is hereby dismissed.
- b. The orders made in the ruling subject of this appeal shall be complied with by close of business on 27th November, 2023.
- c. The Children's Case No 40 of 2023 shall be heard on priority basis and in any event be determined before 1st January, 2024.
- d. The Children's Case No 40 of 2023 shall be mentioned before the trial Court on 28th November, 2023 for further dealing.
- e. The Appellants shall bear the costs of this appeal.

Orders accordingly.

DELIVERED, DATED AND SIGNED AT KITALE THIS 24TH DAY OF NOVEMBER, 2023.

A. C. MRIMA

JUDGE

Judgment virtually delivered in the presence of:

Miss. Arunga, Counsel for the Appellant.

LA – 1st Respondent

Chemosop/Duke – Court Assistants.

