



**ROM v SMO (as mother and Next Friend of LKO and EKM) (Civil Appeal E127 of 2021) [2022] KEHC 12001 (KLR) (23 June 2022) (Ruling)**

Neutral citation: [2022] KEHC 12001 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT KIAMBU  
CIVIL APPEAL E127 OF 2021  
MM KASANGO, J  
JUNE 23, 2022**

**BETWEEN**

**ROM ..... APPELLANT**

**AND**

**SMO (AS MOTHER AND NEXT FRIEND OF LKO AND EKM) RESPONDENT**

*(An application for stay of execution of the Ruling of Hon  
J A Agonda PM delivered in Ruiru on June 22 June, 2021)*

**RULING**

1. This is an appeal against a ruling in a children's matter before the Ruiru Senior Principal Magistrate's Court. The ruling was in respect to an interlocutory application filed by SMO the mother of two minor children. By that ruling, the trial court ordered *inter alia*, the mother do have actual custody, care and control of the two minor children pending hearing and determination of the suit; the father of the minor children (ROM) was granted unlimited and unsupervised access to the children on Saturdays; the father was ordered to meet the children's related school expenses and a medical cover; and the father was to provide rent, food clothing and other miscellaneous expenses and pay kshs 20,000 per month as his contribution for the needs of the children.
2. By an application dated July 21, 2021, the father seeks stay of the order for contribution of kshs 20,000 for the upkeep of the children. He prays that the amount be reduced to kshs 10,000/=.
3. The application is opposed by the mother on the ground that there has been no compliance with the trial court's order. In the mother's view, the trial court considered the earning capacity of the parties and the financial needs of the parties before Ruling on the interlocutory application. That to grant the order sought would be contrary to the principle of the best interest of the child.



## **Analysis**

4. I have considered the parties affidavit evidence. Article 53(2) of the Constitution provides:-

“ A child’s best interest are of paramount importance in every matter concerning the child.”

5. The father in seeking reduction of the amount of his contribution for the maintenance of the minor children stated that he is servicing a loan. I have looked at the statements of the alleged loan the father stated he is servicing. It would have assisted the court had a document been presented by the SACCO confirming the outstanding debt. The statements relied upon by the father, they are not certified as documents emanating from the SACCO. Bearing that in mind, I find and hold there is no basis to grant stay as sought. Such stay or reduction of amount of support will not in my view be in the best interest of the minor children. The application is declined.

## **Disposition**

6. The Notice of Motion dated July 21, 2021 is dismissed with costs to the respondent. For avoidance of doubt, the trial court’s order by the ruling of June 22, 2021 is not stayed or varied nor are the proceedings of the trial court stayed.

**RULING DATED AND DELIVERED AT KIAMBU THIS 23<sup>RD</sup> DAY OF JUNE, 2022.**

**MARY KASANGO**

**JUDGE**

**Coram:**

**Court assistant : Mourice**

For appellant: - Mr Njoroge

For respondent :- Mr Kinyua

**Ruling delivered virtually.**

**MARY KASANGO**

**JUDGE**

