



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT KITALE

MISC. APPLCIATION CASE NO. 9 OF 2018

EKK.....APPLICANT

VERSUS

ICL.....RESPONDENT

RULING

1. The Applicant prays vide his application dated 30th April 2018 that this court revers its ruling delivered on 16th April 2018 starting that he pays the sum of kshs 3000/- per month towards the maintenance of the 2 children herein. He claims that the same is on the higher side considering the fact that he has other children he is supporting. He has attached his payslip indicating that he earns a net salary of kshs 14,903.

2. The Respondent has filed her response under her replying affidavit dated 22nd May 2018 in which she deponed that the applicant has put the other children in expensive schools and cannot be heard to complainant.

She states that beside the school fees which the court ordered the Respondent provides for food, clothings and other general necessities.

3. The court has perused the application herein. The court notes that the impugned order was interime pending the determination of the appeal . Prior to arriving at a figure of kshs 3000/=, the lower court had ordered that the applicant pays a sum of kshs 4500/=. Having heard the Applicant at the first instance, this court found it appropriate to reduce the same to kshs 3000/=.

4. Weighing the circumstances of both parties herein I do not think the sum of kshs 3000 is too onerous. I have seen the payslip by the applicant and save for the other statutory deductions the rest are his savings with the Sacco which ideally are to his advantage.

5. The Respondent is taking care of 2 children who are of tender age. It has not been disputed that they are not his. The sum of kshs 1500 per child per month is not much to say the least. It must also be noted that the respondent has the parental duty and responsibility which she has not abrogated.

6. Whereas this could be painful for now, for the applicant, the interest of the children must be considered. For the foregoing reasons, and pending the determination of the appeal I find the amount of kshs 3000/= monthly to be fair in the circumstances.

7. The application is hereby dismissed with no orders to costs.

Delivered, signed and dated at Kitale this 30th day of January, 2019.

H.K. CHEMITEI

JUDGE

30/1/19

In the presence of:

Bororio for Respondent

No appearance for the Applicant

Ruling read in open court.