



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI

FAMILY DIVISION

MISC. APPLICATION NO. 32 OF 2018

BO.....APPLICANT

VERSUS

MAA.....RESPONDENT

R U L I N G

1. **BO** (applicant/father) and **MAA** (Respondent/mother) are parents of the minor herein who is the subject of this matter. Their relationship is not clear to this court.
2. The two parents have been having problems of where the minor should attend school, school fees, related expenses and his upkeep. The matter dates to 2013 and still remains a pending issue with the two trading accusations against each other.
3. The trial court rendered its judgment in this matter on 4th of September 2018 directing as follows:
 - **The father shall pay school fees and school related expenses.**
 - **By 2019 the child if not moved to another school the father shall pay Kshs.9,000/= a term.**
 - **The father shall pay for N.H.I.F.**
 - **The father shall pay Kshs.5,000/= a month towards school fees.**
4. Prior to the above judgment the trial court had made interim orders and on 8th June 2018 in an application for notice to show cause why the applicant/father should not be committed to civil jail for failure to pay Kshs.55,955/- out of which Kshs.23,000/- was paid leaving a balance of Kshs.37,955/=. On 23rd February 2018 the same court ordered the father to pay a sum of Kshs.32,755. Which was then due.
5. The applicant/father seems to have been aggrieved by the said order and not the judgment. He has filed two application pursuant to the order; an application dated 27th March 2018 where he sought enlargement of time within which to file an appeal, and application dated 22nd November 2018 which seeks stay of the order. None of the said applications have been prosecuted. In short there is no stay nor an appeal on record.
6. Notable is that this court made an order of 8th October, 2018 requiring payment of school fees arrears before the next mention of the matter on 16th October, 2018. By 16th of October, no school fees had been paid. Further on the order to the 19th of July, 2019 the this court once again ordered that school fees be paid on or before 26th September, 2019, issued a stern warning and required the attendance of the father/applicant in court. To date school fees remains unpaid and the applicant/father is yet to make appearance.
7. Three times this court has required school fees be paid pursuant to the judgment which judgment remains unchallenged, to no avail. It is also not clear whether the Applicant has paid Kshs.5,000/= up keep amount.
8. On her part the respondent/ mother acting in person has diligently appeared in court and each time she has complained of non-payment school fees. On the 16th of October 2019 she filed an application seeking for committal of the applicant for disobeying court orders.
9. A lengthy reply was filed. No proof of payment of fees or upkeep as ordered was made. Long and short of it the applicant remains defiant. With the above the background the respondent/mother's application is merited.

10. I have also formed the opinion that the Applicant/father is full of contempt for the court, has no regard for court or any orders made yet he expects to be heard and receive favourable outcome.

11. Due to the applicant/ father's conduct I direct and order for his arrest forthwith for repeatedly being in contempt of court orders of the 14th September, 2018, 8th October, 2018, 16th October 2018 and 19th September, 2019.

12. The Applicant/father shall be held in prison for 6 months until and unless he complies fully with the judgement of 14th September 2018 in full and all arrears settled

13. Costs to the respondent/ mother.

DATED, SIGNED and DELIVERED at NAIROBI this 31ST DAY OF OCTOBER, 2019.

ALI-ARONI

JUDGE