

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI

FAMILY DIVISION

CIVIL APPEAL NO. 24 OF 2014

DGM.....APPELLANT

VERSUS

LMM.....RESPONDENT

(Being an Appeal from the Ruling of Hon. F. K. Munyi Ag. Principal Magistrate

delivered on the 18th March, 2014 in Nairobi Children’s Court Case No. 1199 of 2013)

JUDGMENT

1. In a ruling dated 18th March, 2014 pursuant to an interlocutory application where the Respondent/mother sought for maintenance of the child subject of these proceedings, the Appellant was ordered to pay maintenance of Kshs.15,000/= a month and to provide for the minor’s medical needs through his employer’s medical scheme.

2. The Appellant was aggrieved by the said order and appealed to this court on grounds that the trial court failed to consider that the Respondent resided with her parents; she had failed to make disclosure of material facts; and that the court speculated on the parties income the court having failed to direct parties to file their affidavit of means and for failing to consider the Appellant’s income.

3. I have considered submissions by the Appellant’s counsel alongside the grounds of appeal and also taken note of the interim orders by this court allowing the Appellant to pay maintenance of kshs.10,000/= a month as an interim measure,

4. In arriving at a decision, the court notes that the ruling being appealed from was an interim ruling and dating back to 2014. Secondly the payslip relied upon at the time by the appellant was for March 2014; 3 years back.

The court further takes cognisance that circumstances relating to the parties and the child may have since changed coupled with the fact that the court was not updated on the current status of the trial.

5. With the above, the mind of this court resonates with the findings of Kimaru J that the Appellant has reasonable pay and if he committed his salary to the extent that he cannot meet his parental responsibility he has himself to blame.

6. In addition, this court’s thinking is that the child who was at the time the interim order was made in nursery school must now be in primary school and her needs much more.

7. Coupled with the above the sum granted by the Magistrate in the absence of details of the current status of the parties and the child appear reasonable.

8. The appeal stands dismissed with costs.

SIGNED DATED and DELIVERED in open court this **19TH** day of **DECEMBER, 2019**.

.....

ALI-ARONI

JUDGE