



**REPUBLIC OF KENYA**  
**HIGH COURT AT NAIROBI**  
**MILIMANI LAW COURTS - FAMILY DIVISION**  
**CIVIL APPEAL NO. 79 OF 2014**

**BETWEEN**

**JI ..... APPELLANT**

**AND**

**SK ..... RESPONDENT**

**RULING**

This Court on 17<sup>th</sup> February, 2016 rendered a Ruling on this matter and granted the following orders:

- (1) The Children Court orders of 25<sup>th</sup> June, 2013 and 26<sup>th</sup> September, 2014 are hereby stayed; warrants of arrest withdrawn conditionally.***
- (2) The Appellant shall pay school fees and school expenses for the two children when due.***
- (3) The Appellant shall provide medical expenses for two children.***
- (4) The Arrears of maintenance shall be confirmed as due and owing as per attached documents of claiming refund and what is actually due within 30 days by the Respondent.***
- (5) The Appellant shall within that period propose to this Court the mode of repaying the agreed sum of arrears of maintenance.***
- (6) The Deputy Registrar shall in writing obtain the termination dues paid by the Appellant's employer within 30 in default witness summons to issue to the Financial Controller, [Particulars Withheld] Holdings.***
- (7) The Respondent shall also provide documents of her former employment and termination to this Court within one month.***
- (8) The Respondent shall in the interim period cater for food, shelter and clothing of the children pending final determination of maintenance of the children.***
- (9) The Appellant to provide Memorandum and Articles of Association of [Particulars Withheld] Company to Court within 30 days.***

***(10) The issue of maintenance to be determined upon the documents and clarifications provided on 17<sup>th</sup> March, 2016.***

In that regard, further action was to be taken by the Parties in compliance with the above orders. This Ruling is therefore in regard to the compliance with the foresaid orders by the Parties herein.

When this matter came to Court on 16<sup>th</sup> June, 2016, the Respondent submitted that the Appellant had on numerous occasions declined to pay school fees and that the instant matter had been adjourned severally and thereby prejudicing her and the children. She contended that the school fees arrears amounted to Kshs. 617,136.

On the other hand, the Appellant argued that the amount due was Kshs. 111,000.

**DISPOSITION**

Based on the materials before this Court, the amount due is disputed by both Parties as the Appellant maintains that the amount is Kshs. 111,000 while the Respondent maintains that it is Kshs. 617,136. Whereas both Parties were ordered by this Court to avail receipts in support of their respective claims, none of them did. As such, the Court is unable to ascertain the true amount due and hence it cannot make a conclusion on the matter.

In the circumstances, this Court reinstates the orders that the matter be reverted to the lower Court for the determination of the question of the arrears pending. In the meantime, the Appellant shall continue paying the minor's school fees.

In regard to the orders for maintenance that were sought by the Respondent, based on the material before this Court, both Parties are unemployed and as such, this Court cannot make an order in regard to maintenance. Since there is a valid Court order and the Parties have declined to avail receipts as they were ordered, the amount of Kshs. 10, 000/= sought by the Respondent is declined.

The orders of the lower Court are hereby reinstated.

**DELIVERED, DATED AND SIGNED ON THIS 24<sup>TH</sup> DAY OF NOVEMBER, 2016**

**M. W. MUIGAI**

**JUDGE**

**In presence of:-**

Stella Kamau in person