

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAKURU

CIVIL APPEAL NO. 136 OF 2014

*(An appeal from the Judgment of Hon. Ochanda Nyahururu Resident Magistrate Court
Children's Case No. 14 of 2014 delivered on 26th August, 2014)*

SAMUEL NDUNGU KANEA.....APPELLANT

VERSUS

BEATRICE N. MUIRURI.....RESPONDENT

RULING

I have perused the court record in this matter. A memorandum of appeal was filed on the 23rd September, 2014 and amended and filed on the 22nd December, 2014. The record of appeal is yet to be filed.

Some interim orders were granted to the Applicant/Appellant in this appeal on the 27th October, 2014 which orders have been extended over and over, the last such extension given on the 11th February, 2015 pending the hearing and determination of the application dated the 27th October, 2014.

The Judgment or a certified copy thereof of the Nyahururu Children's Case No. 14 of 2014 and delivered on the 26th August, 2014 has not been annexed to the application. It is the subject of this appeal and the application dated 27th October, 2014. The primary file from the Nyahururu Children's court is also not with this court.

While arguing the application for stay of execution of the Judgment and decree of the above Children's Case No. 14 of 2014 by the Nyahururu Children's court, both parties have referred to the said judgment extensively. In the absence of the said judgment and the Record of Appeal being furnished to this court or a certified copy thereof, it is very difficult for the court to make an informed and well reasoned ruling on the application. Being the primary pleading under attack in the appeal, it is necessary that a certified copy thereof be furnished to this court. I therefore defer making a substantive ruling on the application under review to await the Applicant/Appellant to furnish this court with a copy of the Judgment and the Record of appeal.

In the circumstances, I do direct that a certified copy of the Judgment in Chief Magistrate's Children's Court Case No. 14 of 2014 be provided to this court within 45 days of this ruling, together with the Record of appeal for a substantive Ruling to be prepared. In the meantime, the interim orders in place shall be extended for a further 45 days.

The case shall be mentioned on the 20th July, 2015 for further orders and directions.

Dated, signed and delivered at Nakuru this 28th day of May 2015

JANET MULWA

JUDGE

In the presence of:

No appearance	- For Appellant
Beatrice Muiruri	- For Respondent
Lina	- Court clerk