

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT MOMBASA

CIVIL APPEAL NO. 34 OF 2014

M D APPELLANT

VERSUS

D N M RESPONDENT

RULING

In exercise of the Court's power to review its decision under Order 45 Rule 1 of the Civil Procedure Rules and taking into account:

- (a) The best interests of the child who requires school fees in the sum of Kshs.73,000/-.
- (b) The appellant has not prosecuted an appeal to the Court of Appeal since stay was granted against the release of the decretal sum.
- (c) That no step towards the prosecution of the appeal before this Court from the decision of the Children Court has been taken since 19/9/2007 and
- (d) Considering that the two appeals before this Court and the Court of Appeal are still pending.

I make the following orders and directions:

1. The sum of Kshs.80,000/- out of the security deposit in court be paid to the Respondent/Applicant to pay for the child's school fees.
2. The balance of the deposit to be disposed in accordance with orders of the court upon an application from the striking out or dismissal of the appeals to this Court and the Court of Appeal or the determination of the appeals.

DATED SIGNED AND DELIVERED THIS 30TH DAY OF JUNE 2015.

EDWARD M. MURIITHI

JUDGE

In the presence of: -

Applicant in person

No appearance for the Respondent

Linda - Court Assistant.