

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA

AT MERU

CIVIL APPEAL NO. 6 OF 2015

G W H APPLICANT

VS

G R D.....RESPONDENT

RULING

By the notice of motion dated 12/2/2015, the Appellant, G W H seek the following orders:

- 1. That the court be pleased to stay the orders of Hon. T. M. Wafula, Resident Magistrate issued on 20/2/2015 pending the hearing of the appeal;**
- 2. That the court be pleased to readjust the maintenance of figures to a monthly sum of KShs.4, 000.00 to be deposited into the Respondent's bank account.**

The Applicant has appealed against the decision of the Resident Magistrate, Marsabit, whereby the Respondent sued the Applicant for custody and maintenance of their two issues of the marriage between the Applicant and Respondent. The court, by a judgment delivered on 20/1/2015, ordered the Applicant to pay KShs.8, 000.00 per month to the Respondent for maintenance of the children. This was an increase from the interim order of Kshs.5, 000.00 which was subsisting before the judgment. The Applicant has appealed against the orders of the court and came to this court *ex-parte*, under certificate of urgency on 13/2/2015 and this court granted an interim order staying the order of the magistrate on maintenance and allowed the Applicant to continue paying kShs.5, 500.00 per month which he had been paying before.

Before the application could be heard by Court 2, the Applicant asked the court to have the sum of KShs.5, 500.00 reviewed downwards. Although both parties were before Court No. 2 at the time, the file was referred back to this court for review of this court's order, neither the Respondent nor her Counsel were present before this Court on 2/6/2015.

I have considered what the Applicant told the court. It is the same submission he made before the court when he appeared before me *ex-parte* under certificate of urgency. The reasons are that he is still a student at the university and is unable to pay the sums. The Applicant has not demonstrated what has changed from the time the judgment was delivered. He used to pay the said sum before. He has a joint responsibility with the Respondent to maintain their children and I find no good grounds as to why the court should reduce the sum further even after judgment. The court will not vary its order at this stage and will direct that the Applicant must find ways of raising the said sums pending the hearing of his application inter parties. Having declined to vary the order, this file is sent back to court 2 for hearing of the application or the appeal as the court may direct.

It is so ordered.

DATED, SIGNED AND DELIVERED ON 26TH DAY OF JUNE, 2015.

R.P.V. WENDOH

JUDGE

PRESENT:

Applicant in Person

Court Assistants, Faith/Ibrahim