

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI

CIVIL APPEAL NO. 35 OF 2013

S B M.....Appellant

Versus

S A O.....Respondent

RULING

1. The application dated 29th May 2013 is for stay of execution of the order of the primary court made on 20th May 2013.
2. The said order directed the parties to identify suitable schools for the elder child of their marriage to join in the third term of 2013 and that in the meantime the school fees in respect of the 1st and 2nd terms at Sunshine School be paid at the ration of 70:30 as against the father.
3. The father was dissatisfied with the said orders and filed the present appeal against the said orders. The memorandum of appeal was lodged in court on 28th May 2013. The application dated 9th May 2013 is designed to obtain stay of the said orders pending the hearing and disposal of the said appeal.
4. As it will be noted from the said orders, the current suit is about the education of the children of the parties. The orders relate to payment of school fees. It is these orders that I am asked to stay. No doubt staying the said orders will impact negatively on the welfare the child so far as his education is concerned. I am enjoined by the Children Act to treat the welfare of the child as a matter of paramountary.
5. The orders sought in the instant application cannot be granted in the manner sought by the applicant. I hereby disallow the application. I will award costs of the application to the respondent.

DATED, SIGNED and DELIVERED at NAIROBI this 31st DAY OF January, 2014.

W. MUSYOKA

JUDGE