



**REPUBLIC OF KENYA**

**IN THE HIGH COURT OF KENYA AT ELDORET**

**CIVIL APPEAL NO. 66 OF 2013**

**J K L.....APPELLANT**

VS

**D S. K (Suing through Gurdian Litem)**

**D C.....RESPONDENT**

**RULING**

The applicant D C has filed the application dated 16/01/14 under certificate of urgency. In the application, she wants the appellant ordered to pay outstanding fees for the minor D K who sat his KCPE examinations last year at [particulars withheld] Academy. The applicant has stated that the minor passed with flying colours and is hoping to join Secondary School. The minor cannot however get his result slip and may not join secondary school, because the Primary school needs to be paid Kshs.49,900/= so as to clear the minor.

The appellant has filed a Replying Affidavit to respond to the application. He has averred that he is willing to pay the secondary school fees and has contested the primary school fees said to be owed. He has alluded to a professional undertaking given by the former advocates of the applicant and has stated that since she has fired her counsel, the undertaking can no longer stand.

Mr. Mutai for the respondent in his submissions, stated that the appellant no longer denies paternity. He further submitted that the applicant has not provided to the appellant proper documents showing the fees arrears.

I have perused the record and considered the application and the response thereto. This suit was originally filed before the children's court in Eldoret. I think paternity was disputed and the trial court made an order for DNA to be conducted. There were also orders issued for the defendant (appellant), to pay school fees and maintenance.

The defendant appealed. From the memorandum of Appeal, I think that the appellant was only contesting the order directing that DNA be conducted. He also filed an application for stay, which was allowed. Later, the parties agreed by consent to have DNA conducted, and Ms. Isiaho, then acting for the applicant, gave an undertaking to refund the costs of the DNA, if at all they showed that the appellant is not the father of D K the minor.

As earlier mentioned, Mr. Mutai in his submissions advised that paternity is no longer in dispute. If that is the case, the appellant must continue shouldering his parental responsibilities which include payment of school fees for the minor. The excuse that the applicant (mother to the minor) has not furnished documents for pending school fees to me does not wash. The appellant can as well go to the school and find out for himself the pending school fees, if he is contesting the figure of Kshs.49,900/= claimed by the applicant.

I see no reason why I should decline to allow this application. The application is hereby allowed. I order the appellant, J K L to forthwith pay all outstanding fees and dues owing at [particulars withheld] Academy on account of the minor herein. The appellant ought also to cater for the minor's further fees and upkeep as directed by the trial court.

May this matter be mentioned on 27/1/2014 to ascertain whether the appellant has complied with this order.

**DATED AND DELIVERED AT ELDORET THIS 27TH DAY OF JANUARY 2014**

**JUSTICE MUNYAO SILA**

**HIGH COURT AT ELDORET**

*Delivered in the presence of:*

*The appellant – acting in person.*