

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA

AT MOMBASA

MISC. CIVIL APPLICATION NO. 109 OF 2007

O M.....APPLICANT

VERSUS

B O.....RESPONDENT

RULING

By way of a notice of motion application dated 18th November, 2013 the applicant is asking the court to review the consent made between the parties by which the applicant who is the biological father of the child was required to pay a sum of Kshs. 3,500/= per month towards the maintenance of the child. The applicant did file a replying affidavit dated 14th February, 2014 in which he opposed any variation of the consent.

Parenting is a joint responsibility. The respondent cannot demand that the applicant provide wholly for the child's needs. She as the child's mother must also be ready to play her role as a parent. The respondent is asking that the monthly remittance be increased to Kshs. 10,000/=. She argues that she is jobless and relies on commission work at a saloon. On his part the applicant states that he earns Kshs. 18,000/= as a clerk at the Immigration Department. He has a wife and child and cannot afford to part with Kshs. 10,000/= on a monthly basis.

I have considered the submissions of both parties. It is true that the amount being demanded by the respondent is over 50% of the applicant's earning. He has an equal obligation to provide for his wife and child. I find it strange that the respondent who claims to be jobless proceeds to enroll her child in an Academy school. Why not make use of the free primary education. I note that the consent was entered into in the year 2007. That is about seven (7) years ago. No doubt due to inflation costs of food, etc. have risen. It is only for this reason that I am inclined to review the figure somewhat but bearing in mind the fact that the applicant has other responsibilities. I therefore vary the consent order and direct that the applicant shall now pay to the respondent the sum of Kshs. 4,200/= per month as maintenance for the child with effect from end of April, 2014. It is so ordered.

Dated and delivered in Mombasa this 31st day of March, 2014.

M. ODERO

JUDGE

In the presence of:

Applicant in person

Respondent in person