

IN THE HIGH COURT OF KENYA AT NAIROBI

CIVIL APPEAL NO. 68 OF 2014

P L S.....APPELLANT

-VERSUS-

H A O.....RESPONDENT

RULING

1. The Motion I am tasked to determine is dated 18th August 2014. It seeks stay of maintenance orders made on 7th August 2014 in **Nairobi Children's Case No. 1264 of 2013**, reduction of the monthly maintenance amount for Kshs.40,000.00 to Kshs. 10,000.00, joint custody of the children to both parties with unlimited access, half access to the minors during school holidays, to be allowed to pick the children from school on Fridays from 5.00 p.m. and to return them on Sunday at 4.00 p.m., to be allowed to decide the school to be attended by the children and for parental responsibility to be ordered on equal basis.
2. The said application is filed within the appeal filed herein on 20th August 2014. The appeal arises from the decision of the Children's Court of 7th August 2014. The grounds detailed in the Memorandum of Appeal dated 18th August 2014 focus on the custody, access, monthly maintenance, transfer of schools, among others.
3. The application was served on the respondent. I do not have a reply on record to the application.
4. The application was argued on 28th August 2014. The counsel for the applicant urged the application in the absence of the representative for the respondent.
5. I have carefully gone through the application and the papers filed with it. I have looked at the application alongside the memorandum of appeal. It appears to me that the orders being sought in the application are the same as those set out in the appeal. The applicant appears to be asking me to address the issues raised in his appeal at this stage. If I deal with the issues raised in the application I will have effectively dealt with the appeal, before directions are taken on it and before it is heard.
6. The applicant has not justified why I should deal with the matter in this manner instead of going through the usual motions.
7. I find no basis for proceedings in that manner. Let the applicant argue his appeal for the orders sought in the Motion can only be dealt with at the hearing of the appeal.
8. The Motion dated 18th August 2014 is hereby dismissed. As the respondent has not replied to it, there shall be no orders as to costs.

DATED, SIGNED and DELIVERED at NAIROBI this 28th DAY OF November 2014.

W. MUSYOKA

JUDGE

In the presence of Mr. Odhiambo Ochieng for Mrs. Morara advocate for the applicant.

