



REPUBLIC OF KENYA
IN THE HIGH COURT AT MALINDI
CIVIL SUIT NO. 1 OF 2014 (OS)

IN THE MATTER OF: TAWHEED GIRLS SECONDARY SCHOOL

TRUST

BETWEEN

ALI ABDALLA SALIM

ALI YISLAM BASHAMKH

**MOHAMED SLAIM AHMED (*suing as trustees of Twaheed
Girls Secondary School*) APPLICANTS**

VERSUS

ABUBAKAR MASOUD1ST RESPONDENT

**MUNIR ABUBAKAR MASOUD (*as members
of Twaheed Muslim Association*).....2ND RESPONDENT**

RULING

The application dated 4th March 2014 seeks an order of injunction restraining the Respondents, their agents and servants from interfering, obstructing, impeding and or otherwise tampering with the running and management of Tawheed Girls Secondary School pending hearing and determination of this suit. The application is supported by the affidavit of Ali Abdalla Salim sworn on 12th March, 2014. The Respondents filed a replying affidavit on 18th July, 2013 sworn by Munir Abubakar Masoud.

Mr. Ali, Counsel for the Applicant submitted that the Applicants are the registered trustees of the school. The first Respondent was previously a board member. The Respondents have been interfering with the management of the school and should be restrained from doing so.

I have gone through the pleadings here. It is established that the 1st Respondent seems to have been the originator or founder of the school in dispute. The pleadings show that the school was established in 1998 but was duly registered on 13th January, 2006. It is a community based school operating on Plot Number L. R 8604 in Malindi. It is also clear from the pleadings that when the school started to operate it was allocated the same plot but the land reference number had not been done.

The Applicants herein registered a Trust Deed in 2011. They then processed the title deed for the same premises and three trustees were registered as proprietors of the plot but as trustees for Tawheed Girls Secondary School Trust. It is not clear how the school transitioned from its former mode of operation into a trust. There are no minutes to show that members resolved to register a trust deed. I believe the registration of the Trust Deed led to the exclusion of the Respondents from the operation of the school.

The school was meant to benefit the local community that is why the sponsorship is indicated as community based. The wrangles between the two parties will definitely have an impact on the performance and running of the school. According to the trust deed, the first priority on any income is to facilitate the running of Tawheed Girls Secondary School. It is clear to me that there are two groups all interested in the running of the school. The Respondents believe that they are the forerunners and initiators of the school project and should therefore be left alone to run the school. On the other hand, the Applicants feel that being members of the community they are equally entitled to run the school.

The current status seems to be that the Applicants are the ones running the school. I will grant the application herein so that the running of the school is not interfered with. I believe these orders will not settle the dispute and the applicants should take steps and list the case for hearing so that the issue can be determined once and for all.

In the end, the application dated 4th March, 2014 is granted. This is purely on the basis of the balance of convenience so that the school can continue to run.

This suit should be listed for hearing as a matter of priority.

Costs shall follow, the outcome of the main suit.

Delivered and dated at Malindi this **11th** day of **December, 2014** in the presence of:

Said J. Chitembwe

JUDGE