



REPUBLIC OF KENYA

High Court at Embu

Civil Case 5 of 2013

THE REGISTERED TRUSTEES OF CHILD
WELFARE SOCIETY OF KENYA.....PLAINTIFF

VERSUS

THE REGISTERED TRUSTEES OF THE
DIOCESE OF
EMBU.....1ST DEFENDANT

HIS EMINENCE JOHN CARDINAL NJUE.....2ND DEFENDANT

BISHOP PAUL KARIUKI.
.....3RD DEFENDANT

ST. LETIZIA BRAGA.....4TH DEFENDANT

ST. MARY KINYUA.....5TH DEFENDANT

COMMISSIONER OF
LANDS.....6TH DEFENDANT

DIRECTION

When this matter first came before me on 5/3/2013 under certificate of urgency, I directed that the Respondents be served and all parties appear before me on 6/3/2013 11 a.m. which they did. Most of the parties appeared through their counsels. Having read some of the documents before me and seeing how heated the matter was, I directed the Provincial Children's Officer Nyeri to compile a detailed report on the welfare of the children at the Embu Diocese Children's Home. This was necessitated by the fact that the Plaintiff was not keen on a report by Embu Children's Office for reasons best known to them.

I must commend the Provincial Children's officer Nyeri Mr. George G. Kibuku for the detailed report

filed herein. Why did I call for this report? There was a request that the *status quo* be maintained. From what came from the counsels appearing, it was not easy to tell what the *status quo* was.

Secondly, there was an order which had been issued by the Chief Magistrate's Court Embu vide CC No. 46/13 and which order had created some anxiety amongst the parties appearing. I had to therefore know what *status quo* I was maintaining before issuing any orders.

The facility in question is a children's home with children capacity of 60 but currently operating at 45. The report is very positive on 75% of the issues it looked into and I must commend the managers and workers for the work being done. Any court dealing with a matter of this nature must always ensure that the interest and welfare of the child comes as the first priority.

Even as the Plaintiff and the Respondents are engaged in their own legal battles, we must all collectively ensure that the lives of the children at the facility are not jeopardized. All the counsels and parties here are proclaiming that they are all concerned with the welfare of these children. It must be shown in their deeds. These children must continue to feed, play, live harmoniously, learn etc in an atmosphere that is conducive to their proper growth. The situation prevailing saw the departure of 19 workers and as is seen from the report, a number of new staff had to be brought in to give support. (Ref. Appendix 3).

Mr. Kibuku has mentioned in his report, the attachment between the children and workers which was temporarily broken should not be allowed to continue that way. It must be revived. It is also encouraging to note that all parties involved are willing end this kind of scenario.

The report also talks of workers wearing bright blue T-shirts and the KK Guards wearing strikingly brilliant uniforms. These two groups have created a scene that is not healthy for the children. I quit agree with the remarks of Mr. Kibuku. I do not know if the bright blue T-shirts are a uniform or they are meant to pass a message to Court. The workers must stop wearing those T-shirts.

After outlining the above, I find it important to address the 19 members of staff. They are the ones who are charged with the responsibility of offering services to these children. These workers may be having their own challenges here and there but my direction to them is to only do what took them to that institution. They should not take up the law in their hands and conduct themselves in a manner that is not befitting to the calling behind the setting up of that institution. Any misconduct will be dealt with in accordance with the law.

I therefore here and now direct that:-

- 1.The 19 members of staff return back to the institution to render their services as before.***
- 2.The KK Security Guards now camping outside the home leave with immediate effect.***
- 3.The home to continue being run as before without any interferences as the Court deals with the matter before it.***
- 4.Respondents once served to file their responses in accordance with the Rules so that the application dated 5/3/2013 is heard interpartes.***
- 5.Communication between parties herein to be kept to themselves. The Court should not be involved as these issues are already before Court for determination.***

DIRECTIONS DELIVERED, DATED AND SIGNED AT EMBU THIS 19TH MARCH 2013.

**H.I. ONG'UDI
JUDGE**

In the presence of:-

Ms. Fatuma for 1st, 4th & 5th Respondents

Mr. Ithiga for 3rd Respondent

Mr. Mbaabu for Applicant

Njue CC