



REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA
AT KAKAMEGA
CIVIL APPEAL NO. 158 OF 2010

DOUGLAS ADAGALA MWANDISHI..... APPELLANT

VERSUS

SUSAN INGOSI ADEWARESPONDENT

R U L I N G

1. This Appeal relates to the custody of a minor, in a matter pitting her parents. In a Ruling delivered on 19.11.2010, the learned magistrate, Mrs. M. Moranga, SRM, granted interim custody to the mother and that order triggered the present Appeal.
2. Further, by an Application dated 1.2.2010, the Appellant, who is the father of the minor, seeks an order of stay pending the hearing of the Appeal. I have read the Supporting Affidavit sworn on 1.2.2010 as well as the Replying Affidavit sworn on 28.2.2011 by the mother, who is the Respondent. I also interviewed the minor, privately, on 1.3.2011 before allowing the father to maintain custody.
3. Having given the temporary order of stay and the minor having lived with the father prior to the proceedings before the subordinate court and even subsequent to these proceedings, it is in the best interest of the child that I should maintain the *status quo* and order that the Appeal be fixed for hearing on a priority basis and all the issues obtaining, be conclusively determined. To make any other order will be disruptive to the child, more so where she attends school in Kapsabet and her mother works and resides in Nairobi.
4. In the event, I will extend the orders that the Appellant shall retain custody of the minor until the Appeal is heard.
5. Let dates for hearing of the Appeal be taken upon delivery of this Ruling.
6. I shall make no order as to costs.

7. Orders accordingly.

Delivered, dated and signed at Kakamega this 14th day of April, 2011.

ISAAC LENAOLA

J U D G E