



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA

AT MERU

H.C.C.C. CASE NO 146 OF 2010

LESIIT J

VERONICA WANDIA

WAMBUGU.....PLAINTIFF

V E R S U S

STEPHEN MAITETHIA

KIRIMI.....DEFENDANT

R U L I N G

The submissions of both counsel are considered on the issue pertaining to prayer 2 of the application. The respondent has offered to keep his children aged 2 years and 6 years and their mother in a cottage or club while he looks for alternative housing. The explanation given why the children and their mother cannot go back to their home is that returning them to the matrimonial home will endanger the life of the defendant.

I have taken into account

1. The age of the children 2 years and 6 years. I have noted that the defendant accepts are his children.
2. I have noted the plaintiff is expecting a baby next month, which is 2 or so weeks to a month from now.

When considering an issue of the nature before me, the guiding principle is that the action taken by the court should be one which is to the best interest of the children. The children are of tender age.

I think that it will be most cruel to uproot them from their home a safe haven and environment for them and “throw” them into a club or cottage, a public place which they are not used to, just because the parents have disagreed with one another.

In the best interest of the children of the union before me. I think that they should be reinstated to their home due to their age and bearing in mind their best interest, the mother must live with them until it is shown to court that their mother is not the correct person to care and nurture them.

I will make the following orders which are subject to renew from time to time:-

1. The order in terms of prayer 2 of the application is granted. The court issues a Mandatory Injunction directed at the defendant to restore the applicant and the two minor children of the union to the matrimonial home NTIMA/NTAKIRA/ 3795 until further orders of this court.

2.The O.C.S. Meru and Local D.O. ordered to ensure compliance of the orders issued in 1 above.

3. The parties to appear before court for further directions on 2nd December 2010 at 9 a.m.

Dated Signed and delivered at Meru this 19TH day of November 2010.

LESIIIT, J

JUDGE

In the presence of the parties
Kirimi – Court Clerk.
Mr. C. Kariuki for plaintiff
Mr. Mwenda Mwarania for defendant

LESIIIT, J

JUDGE

DATE:19th November 2010

CORAM

Hon. Lady Justice J. Lesiit – Judge

C/Clerk Kirimi/Cecily

Mr. Plaintiff/Applicant

Mr. For Defendant/Respondent

ORDER

Judgment/Ruling delivered in open court.

**J. LESIIT
JUDGE.**