



REPUBLIC OF KENYA

**IN THE HIGH COURT OF KENYA
AT NAIROBI (NAIROBI LAW COURTS)**

Civil Case 203 of 2005

**RUTH SYOMBUA MUOKA (a minor suing thro' his father
and next friend JUDAH MUOKA MUSAU) PLANTIFF**

VERSUS

KENYATTA NATIONAL HOSPITAL BOARD 1ST DEFENDANT

DR. MAKEWA 2ND DEFENDANT

DR. PAMELA OKELLO 3RD DEFENDANT

DR. NGA'NGA' 4RD DEFENDANT

RULING

APPLICATION SEEKING ORDERS OF COURT TO RELEASE

FUNDS IN A FIXED DEPOSIT ACCOUNT HELD FOR THE MINOR

DATE 20 JUNE 2008

I) Background

1. On the 29 June 2006 I awarded damages to a minor female aged 3 month old in September 2004 for personal injury resulting to an amputation of the arm due to the Hospital negligence by a government hospital.

2. A total sum of Ksh.3.726,000/- was awarded. As required by law the capital sum therein must be invested in a fixed deposit account until the minor attains the age of 18 years. The guardians, who must be a minimum of two are not to touch this sum of money. They are nonetheless permitted to access the interest accrued on the said sum for the upkeep of the minor.

II: Application 20 June 2008

3. The applicant brings this current application seeking orders that a sum of Ksh.250,000/- be released to the parents of the minor. The reasons being that the minor is very ill.

III: Opinion

4. This court has ruled elsewhere in similar application that before an applications is heard the balance of the account at the bank must be disclosed to the parties and the court, in order that the court in allowing a withdrawal, remains within the limits of the capital sum.

5. I would accordingly rule that the bank I and M Bank do provide the actual balance sum held in a fixed deposit A/c 002d41080640001 in the joint names of the guardians Judah Muoka Musai and Pauleen Kamene before an order is made. Orders be executed by the Deputy Registrar.

6. This matter be mentioned on 21 July 2008 at 8.45 a.m.

DATED THIS 16TH DAY OF JULY 2008 AT NAIROBI.

M.A. ANG'AWA

JUDGE

G.W. Wambugu instructed by Wambugu & Co. AdvocateS decree holder/applicant – present

Mingi N instructed by Mwaura & Mwaura Co. Advocates for the judgment debtor/respondent - present