



REPUBLIC OF KENYA



**HN v CAA (Family Appeal E003 of 2024)  
[2025] KEHC 4163 (KLR) (Family) (3 April 2025) (Ruling)**

Neutral citation: [2025] KEHC 4163 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT NAIROBI (MILIMANI LAW COURTS)  
FAMILY  
FAMILY APPEAL E003 OF 2024  
HK CHEMITEI, J  
APRIL 3, 2025**

**BETWEEN**

**HN ..... APPLICANT**

**AND**

**CAA ..... RESPONDENT**

**RULING**

1. In her Notice of Motion dated 17<sup>th</sup> January 2024 the Applicant seeks the following orders:-
  - (a) That the court be pleased to grant leave to the Applicant to file an appeal out of time.
  - (b) That pending the hearing and determination of this application the court be pleased to stay order no 4 of the decree dated 22<sup>nd</sup> November 2023 directing plaintiff to have access to the minor during the first half of every school holiday.
  - (c) Costs be in the suit.
2. The application is based on the grounds thereof and the sworn affidavit of the Applicant dated even date.
3. The gist of the application is the order and decree of the trial court dated 22<sup>nd</sup> November 2023 in which it gave the Respondent unsupervised access to the minor during the first half of the school holidays. The Applicant averred that her application for review was denied by the trial court hence this application.
4. Her other grounds are that the child is of tender age and the Respondent cannot take care of her due to his busy schedule. That the Respondent has another woman she is staying with who will not be in good terms with the minor.



5. That the said lady RTK was her friend in college and she is the cause of her broken relationship with the Respondent and therefore apprehensive that she will be hostile to the minor.
6. In response, the Respondent filed his affidavit sworn on 31<sup>st</sup> January 2024 accusing the Applicant of making similar orders which the trial court rejected. That it was the Applicant who had breached the court orders and she cannot be allowed to benefits from it.
7. He denied the allegations that he was a womanizer as portrayed by the Applicant. He deponed that the Applicant has failed to comply with the orders and has vowed that she was not going to release the minor to him.
8. The court has perused the entire pleadings and the submissions by the parties and the annexures to the affidavits.
9. I do not find the application merited for the simple reason that the issues raised by the Applicant are simply fears without any cogent evidence. The issue of her and the lady known as RK whom she said was her college made and the cause of her problems with the Respondent in my view are not backed by any tangible evidence for now.
10. There is no reason why she cannot comply with the trial court's orders in the absence of any sufficient reason and this court has neither been convinced. There is no danger in my mind to the minor and in any event being the father to the minor entitles him to access to her unless there is such danger to the minor which in this case the trial court having heard the parties did not see.
11. For now, and so as not to jeopardize the intended appeal this court shall not comment much.
12. The application is disallowed but leave to appeal granted which should be done within 14 days from the date herein.
13. Costs shall await the outcome of the appeal.

**DATED SIGNED AND DELIVERED VIA VIDEO LINK AT NAIROBI THIS 3<sup>RD</sup> DAY OF APRIL, 2025.**

**H K CHEMITEI**

**JUDGE**

