



**DKK v EGE (Divorce Cause 7 of 2017)
[2025] KEHC 10324 (KLR) (Family) (18 July 2025) (Ruling)**

Neutral citation: [2025] KEHC 10324 (KLR)

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

**FAMILY
DIVORCE CAUSE 7 OF 2017**

**PM NYAUNDI, J
JULY 18, 2025**

BETWEEN

DKK APPLICANT

AND

EGE RESPONDENT

RULING

1. The Notice to Show cause application for execution of Decree dated 14th June 2018 seeks salary attachment of the Respondent. The Respondent filed a Replying Affidavit dated 19th February 2025 and a Notice of Preliminary Objection dated 5th February 2025.
2. The Respondent avers that this court lacks jurisdiction to entertain this application because the minor is not a resident or citizen of this country and is residing in the United Kingdom where she just got employed. That he and the applicant are not nationals or residents of Kenya and are currently living in England and Columbia respectively. He averred that the decree dated 14th June 2018 does not exist. He has always provided for their daughter and has complied with the agreements of 23rd March 2016 and 24th October 2019. He averred that there was no need to remit money to the applicant because he remitted USD36,776 and USD 19,352 as school fees and tuition to the school directly. He has also been covering her medical expenses and sending GBP 1000 monthly to her bank account for her living expenses.
3. He averred that his daughter turned 18 years old in October 2024 and is currently employed and is earning a salary in England which is above minimum wage. That part of the agreement in 2016 was that the applicant was supposed to report her entire monthly income which she has not remitted since 2022. That in the event this court finds that it has jurisdiction to determine this application, the court should take note of the discrepancies in the financial calculation presented by the applicant.



4. The Grounds of opposition majorly are on the jurisdiction of this court to hear and determine the application since all the parties involved are not Kenyan citizens or nationals.
5. The applicant filed a further affidavit dated 10th April 2025. She averred that this court has the jurisdiction to determine this application because at the time the consent order was entered into, she and the child were living permanently in the country. She averred that the Respondent has tried to vary the orders of this court in the United Kingdom and Colombia but has been unsuccessful. That there is no decree showing that the respondent owes her USD 8000; he remitted USD 5000 in late 2023 and USD 1500 in July and August 2024. She averred that the Respondent has failed to honour the further agreement of 24th October 2019 and has not been consistent in payment of alimony between August 2023 and August 2024. She argued that when the Respondent did not remit alimony between March and June 2022 she filed a notice to show cause on 27th June 2022 and he was ordered to pay USD 3,000 per month.
6. She averred that the employer of their daughter paid part of her school fees and therefore, it is not true that the Respondent fully paid her school fees and tuition and boarding fees. She argued that she also paid for dance and music classes. That the medical cover is provided by the Respondent's employer and he does not pay for it. She averred that she stopped remitting her monthly income to the Respondent in 2022 when he stopped paying her alimony and filed for an application for review
7. She argues that the Respondent is required to remit USD 68,416 (capped at 50% of the Respondent's salary) less USD 8000 which he has remitted. She urged the court to compel the Respondent to pay her what he owes her because he is still bound by the terms of the agreement.

Applicant's Submissions.

8. The applicant submitted that this court has jurisdiction to hear and determine this application because: at the time of filing this suit, none of the parties were Kenyan citizens and therefore, the issue of nationality should not arise; the consent was made in Kenya; when the respondent made an application for review, the question of jurisdiction did not arise and it should not be raised at this point and; that the Respondent has made attempts to review the orders issued by this court but the courts held that they does not have jurisdiction over this matter.
9. The applicant further submitted that the Respondent has been in default of alimony maintenance as he has only remitted USD 8000. She argued that she is entitled to the maintenance arrears unless the court finds otherwise. She relied on the decisions of *JKW v AWM* [2018] eKLR and [GDM v CMM](#)[2020]eKLR.

Respondent's Submissions.

10. The Respondent submitted that the Notice to Show Cause filed by the applicant is based on a non-existent decree. That the amounts arrived at by the applicant is unknown. He argues that the Applicant is in breach of the terms of the agreement by not remitting her income whereas she blames the Respondent for failing to comply with the court orders. Relying on the decision of [MAL v AMC](#)[2016] eKLR, he submitted that the application for attachment of his salary should be dismissed since he has complied on his part.
11. Relying on the decisions of *MEK v GLM* [2018] eKLR and *WMM v BML*[2012]eKLR, the respondent submitted that applicant should not burden the Respondent with her demands while on her part keeps all her earnings to herself and does not make her 50% contribution to their daughter.



Analysis and Determination.

12. Having considered the pleadings herein, submissions filed and relevant law, I consider the issue for determination to be whether a Notice to Show Cause could issue in the absence of a decree.
13. In her further affidavit sworn on 10th April 2025, the Applicant concedes that there is no decree, she has computed the sums. I note that the sums are contested by the Respondent. The Notice to Show Cause is therefore defective and accordingly dismissed.
14. The matter is referred to the Deputy Registrar for computation of the sums owing, if any, to the Applicant. Towards this end the matter to be mentioned before the Deputy Registrar on the 8th October 2025 for directions.
15. The respondent will have the costs of the application assessed at Kshs 25000

SIGNED, DATED AND DELIVERED VIRTUALLY AT NAIROBI THIS 18TH DAY OF JULY 2025.

P M NYAUNDI

JUDGE

In the Presence of

Ms. Ndirangu for Applicant

Ms. Tole holding brief for Rose Mbaya for Petitioner/Respondent

Fardosa Court Assistant

