



**In re CA (Minor) (Civil Appeal E012 of 2022)
[2023] KEHC 20419 (KLR) (Family) (14 July 2023) (Ruling)**

Neutral citation: [2023] KEHC 20419 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT NAIROBI (MILIMANI LAW COURTS)
FAMILY
CIVIL APPEAL E012 OF 2022
MA ODERO, J
JULY 14, 2023**

BETWEEN

**OOO 1ST APPELLANT
JNJ 2ND APPELLANT**

AND

**OOO 1ST APPLICANT
JNJ 2ND APPLICANT**

*(An appeal from the Ruling and Directions of Honourable H.M. Mbatia
(Mrs.) Senior Resident Magistrate given on 23rd November 2021 in
OOO and JNJ, Nairobi Children’s Case MCCH MISC/XXXX/2021.)*

RULING

1. The appellants OOO (1st appellant) and JNJ(2nd appellant) filed this appeal challenging the ruling of November 23, 2021 delivered by Honourable H.M Mbatia (Mrs) Senior Resident Magistrate in Nairobi Children’s Case No xxxx of 2021.
2. The appeal was canvassed by way of written submissions.

Background

3. The 1st appellant is the step-father whilst the 2nd appellant is the biological mother of the child known as CAN aged ten (10) years old. The appellants are legally married to each other. They annexed to their pleadings a copy of their marriage serial number 3xxx0 indicating that the couple solemnized their union at the All Saints Cathedral on November 24, 2018 (annexture ‘CA 1’).



4. *Vide* the originating summons dated November 15, 2021 the appellants applied to be granted guardianship order over the minor.
5. On November 23, 2021 the learned trial magistrate dismissed their application for guardianship.
6. Being dissatisfied by the decision of the trial court the appellant filed the memorandum of appeal dated November 26, 2021 seeking to set aside the decision of the trial court.
7. In my view the office of the Director Children's Services ought to have been served with this appeal to enable them respond to the same if they so wished. The office of the Hon Attorney General also ought to be served with the appeal as the appellants are challenging the decision of the learned trial magistrate who cannot appear in person as a litigant in this matter.
8. I direct that the appeal be served upon the Hon Attorney General and the Director Children's Services for their response (if any) before a ruling is delivered. It is so ordered.

DATED IN NAIROBI THIS 14TH DAY OF JULY, 2023.

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MAUREEN A. ODERO

JUDGE

