



REPUBLIC OF KENYA



NN v BK (Civil Appeal 21 of 2014) [2023] KEHC 20331 (KLR) (20 July 2023) (Judgment)

Neutral citation: [2023] KEHC 20331 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT NAKURU**

CIVIL APPEAL 21 OF 2014

HK CHEMITEI, J

JULY 20, 2023

BETWEEN

NN APPELLANT

AND

BK RESPONDENT

*(Being an Appeal from the Judgement of Hon. M. A. Otindo (RM)
dated 16th January, 2014 In CM Children's Case No 198B of 2012)*

JUDGMENT

1. The appellant and the respondent are husband and wife. At the trial court the respondent sued the appellant for maintenance of one of the youngest child and the court delivered its ruling in which it inter alia directed that the appellant meet the basic needs of the minor including medical, clothing, Kshs 4000 monthly maintenance for food and affordable housing.
2. The appellant was dissatisfied with the said judgment and has appealed against it entirely. The basic grounds as can be deduced from the grounds of appeal are that the court failed to apportion maintenance between him and the respondent and that the court failed to consider the appellants evidence. In other words, the respondent ought to have carried some equal responsibility as well.
3. The parties were directed to file written submissions which I have perused. The respondent is acting in person.
4. The appellant submitted that since he had another family which was acknowledged by the trial court it was necessary that the court to take into consideration that factor. That the respondent on the hand is not incapacitated as she is also able to work and earn a daily living. He further submitted that the court did not take into consideration the fact that he had some loans and that he was in need of medication as well.



5. The respondent countered this by agreeing with the findings of the trial court and prayed that the same ought to be sustained. She relied on Section 94(1) of the Children's Act.
6. The court has perused the lower courts proceedings and the judgement thereof. I do not respectfully agree with the appellant's line of submissions herein. It was found by the court that the respondent was a casual labourer and that her income was inconsistent. The only reprieve was that the subject was to be taken to a school whether public or not that the appellant could afford.
7. At the same time the appellant despite presenting his payslip was found to be wanting as it was not recent and the court could not rely on it. It was found for instance that the loan which was indicated therein was already paid off. The court found a sum of Kshs 4000 deducted from the appellant monthly to be reasonable. I would not wish to disturb the same. The matter is about 9 years old and a figure of kshs4000 at this moment cannot be reduced to say the least. The same is commensurate to the current inflationary statistics or trend.
8. Consequently, and taking the time factor stated above I find that the appeal is not meritorious. I find the trials court reasoning cogent and reasonable in the circumstances. Both parents were found to be in a position to share responsibility equitably. It must also be seen that it was the respondent who stayed generally with the subject minor.
9. The courts findings are consistent with Section 98 of the Children's Act.
10. The appeal is dismissed with no order on costs.

Dated signed and delivered at Nakuru this 20th day of July 2023.

H K CHEMITEI

JUDGE

