

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI

FAMILY DIVISION

CIVIL APPEAL NO. 59 OF 2016

L OAPPELLANT

VERSUS

A H.....RESPONDENT

RULING

1. The application dated 23rd May 2016 principally seeks stay of execution of committal orders made in Milimani Children’s Case No. 1635 of 2014 on 16th May 2016 and stay of further proceedings in the matter. She is aggrieved by the order and challenges the same on grounds of service, among other reasons.

2. I note that the applicant has already launched a memorandum of appeal, and interim orders were made herein on 2nd June 2016.

3. The applicant has a right to challenge an order of a lower court if they are aggrieved of the same. The order made is for committal to civil jail. That has something to do with limiting a person’s right to move about and it could affect his freedom to associate. It is a matter that serious.

4. I am inclined to allow the application for stay of execution of the order of 16th May 2016, to enable the applicant prosecute her appeal at the High Court. However, no justification has been given for stay of the entire proceedings.

5. The orders that I am inclined to make are:

(a) That there shall be stay of execution of the orders made in Milimani Children’s Case No. 1635 of 2014 on 16th May 2016 pending the hearing and determination of the appeal herein;

(b) That the orders made on 30th March 2015 and 10th April 2015 on custody and access to the minor by the respondent shall subsist until other or further orders are made by the lower court; and

(c) That costs of the application shall abide the outcome of the appeal.

DATED and SIGNED at NAIROBI this 3RD DAY OF MAY, 2017.

W. MUSYOKA

JUDGE

DELIVERED and SIGNED this 5TH DAY OF MAY, 2017.

M. MUIGAI

JUDGE