

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT MACHAKOS

CIVIL APPEAL NO. 114 OF 2008

JULIUS MUTE MI MULWA.....APPELLANT

VERSUS

JENIFFER MUTE MI.....RESPONDENT

RULING

1. The Application dated 6th March 2013 seeks orders that the orders herein dated 2nd August 2012 be reviewed. In the said order the Respondents monthly contribution for his children’s maintenance was reduced from Ksh 8,000/= to Ksh 4,400/=.

2. It is contended in the affidavit in support that with the passage of time, the children’s needs have drastically gone up. That the court acted under the mistaken belief that the children’s needs amounted to Ksh 8,000/= yet the evidence adduced before the lower court was that their monthly requirements were Ksh 9,000/= per year while the school fees amounted to Ksh 49,000/= per year.

3. The application is opposed. It is deponed in the replying affidavit that the application is a ploy by the Applicant to evade parental responsibility. That the alleged increase in the children’s needs has not been tabulated. That the Respondent has refused to accept the Ksh 4,400/= maintenance ordered by this court and the Respondent has made an application for the deposit of the same at the Senior Resident Magistrate’s Court Mwingi where this matter emanated from. It is further stated that the Respondent’s income has not changed and in any case only one child is still in school. It is further stated that both the Applicant and the Respondent are teachers and that the Applicant earns more money than the Respondent.

4. The application was canvassed by way of written submissions which I have duly considered.

5. The Applicant has not tabulated the children’s current needs. It is also not disputed that the first two children are no longer in school. However, the Respondent has offered in the written submissions to meet the school fees and related expenses for the child who is still in school. The offer is acceptable to the Applicant according to her submissions. The child is in boarding school. The Applicant can therefore manage to meet the minors expenses during the school holiday.

6. With the foregoing, I make the following orders:

- (a) The Respondent to pay the minor child’s school fees directly to the school.
- (b) The Respondent to meet all the school related expenses e.g. uniforms, books, transport, back to school shopping etc.
- (c) The Applicant to meet the child’s expenses during the school holidays.
- (d) Each party to meet own costs.

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B. THURANIRA JADEN

Dated and delivered at Machakos this 5th day of June, 2015

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B. THURANIRA JADEN

JUDGE