

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI

CIVIL APPEAL NO. 97 OF 2014

P M CAPPELLANT

VERSUS

A N GRESPONDENT

RULING

1. The Motion for determination is dated 14th November 2014. It seeks that there be stay of the orders made on 23rd October 2014. The application apparently seeks stay of the said orders pending the hearing and determination of a review application pending before the Children's Court.
2. In his affidavit in support of the application, sworn on 14th November 2014, the Applicant states that he was ordered to pay a sum of Kshs. 100,000.00. He pleads that he is unemployed and therefore unable to make the deposit.
3. There is nothing on record to indicate that the respondent is opposed to the application. There is an affidavit of service sworn on 19th November 2014 evidencing service of the application on the respondent.
4. When the matter came up for hearing on 20th November 2014, counsel appearing for the applicant pleaded with me to allow the application as the same was not opposed.
5. I have noted that the orders sought to be stayed relate to maintenance of children. Indeed they are in respect of accrued monthly payments accumulated due to non-payment by the applicant.
6. Maintenance of children is a parental responsibility. It is a mandatory requirement of the law imposed by both the Children Act and the Constitution of Kenya. It is a basic human right of the child. It cannot be waived nor suspended. A child must be provided for even when the parent is unemployed.
7. I am not satisfied that a case has been made out for granting of the orders sought in the application dated 14th November 2014. The said application must be and is hereby dismissed. There shall be no order as to costs.

DATED, SIGNED and DELIVERED at NAIROBI this 10TH DAY OF JULY, 2015.

W. MUSYOKA

JUDGE

In the presence of Mr. Kamata advocate for the appellant.

No appearance for the respondents.