



**PKT v AYS (Civil Appeal E009 of 2025)
[2025] KEHC 13794 (KLR) (Family) (3 October 2025) (Ruling)**

Neutral citation: [2025] KEHC 13794 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT NAIROBI (MILIMANI LAW COURTS)**

**FAMILY
CIVIL APPEAL E009 OF 2025**

H NAMISI, J

OCTOBER 3, 2025

BETWEEN

PKT APPLICANT

AND

AYS RESPONDENT

RULING

1. Before the Court is Notice of Motion dated 12 February 2025, seeking the following orders:
 - i. Spent
 - ii. That there be a stay of execution of the judgement and decree of Hon. Gitau, Resident Magistrate delivered on 20 December 2024 in Nairobi MCCC No E599 of 2021 pending the hearing and determination of this Application;
 - iii. That there be a stay of execution of the judgement and decree of Hon. Gitau, Resident Magistrate delivered on 20 December 2024 in Nairobi MCCC No E599 of 2021 pending the hearing and determination of the appeal;
 - iv. That the costs be in the cause
2. The Application is premised on the grounds on the face thereof and supported by the Affidavit sworn by the Applicant. In the numerous grounds raised by the Applicant, one is of particular importance in this situation. The Applicant avers that the judgement rendered by the trial court was done without ascertaining paternity of the child. In my considered view, this is a fundamental issue that ought to be determined from the onset as it will not only affect the present application, but also the appeal.



3. It is not in the best interest of the child to stay an order for maintenance. However, in the circumstances, the critical issue of paternity needs to be ascertained first before any further orders are issued. For that reason, I hereby direct that a DNA test be conducted within 30 days from the date hereof at a facility to be agreed upon by the parties. The costs of the DNA test shall be met by the Respondent. In the event that the test is positive, then the Applicant shall refund the Respondent's expenses.
4. I grant a stay of execution of the judgement delivered by the trial court pending the hearing of this Application. The other prayers are held in abeyance pending the outcome of the paternity test.

DATED AND DELIVERED AT NAIROBI THIS 3 DAY OF OCTOBER 2025

HELENE R. NAMISI

JUDGE OF THE HIGH COURT

Delivered on virtual platform in the presence of:

for the Applicant: Ms Anyango h/b Mr. Kipkorir

for the Respondent: Mrs. Okina

Court Assistant: Lucy Mwangi

