



**JMN v LWK (Family Appeal E103 of 2023)
[2025] KEHC 15469 (KLR) (Family) (30 October 2025) (Ruling)**

Neutral citation: [2025] KEHC 15469 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT NAIROBI (MILIMANI LAW COURTS)
FAMILY
FAMILY APPEAL E103 OF 2023
HK CHEMITEI, J
OCTOBER 30, 2025**

BETWEEN

JMN APPELLANT

AND

LWK RESPONDENT

***(BEING AN APPEAL FROM THE JUDGEMENT OF HON. M.W. KIBE (SRM) DATED
1ST SEPTEMBER, 2023 IN MILIMANI CHILDRENS COURT CASE NO. E1270 OF 2022)***

RULING

1. The Applicant in the application dated 29th September 2025 is seeking the following orders:-
 - (a) The court be pleased to issue production orders directing that the minor children MC aged five years and Melissa aged 9 years be presented before this court on the 2nd October 2025 or on such a date as the court shall direct so that the court may personally ascertain their well-being, comfort and wishes.
 - (b) The court be pleased to grant prayer number 3 of the Applicant’s application dated 4th July 2025 to the extent that it advances the welfare, safety and stability of the minor children in accordance with the court’s own assessment of their best interests.
 - (c) The court be pleased to grant an urgent hearing date on priority basis on the 2nd October 2025 for interpartes hearing of the application dated 4th July 2025 so that the welfare of the minor children may be addressed without delay.
 - (d) That OCS within the jurisdiction where the minors are currently resident be directed to aid in the implementation and enforcement of the courts orders number 2 and or 3 strictly to ensure



the safety and stability for the children in line with the courts paramount duty to safeguard their best interests.

2. The application is based on the grounds thereof and the Applicant's sworn affidavit dated the same date.
3. The gist of the application is that pursuant to the judgement of this court dated 26th June 2025 the court granted the Respondent custody of the minors among other directives.
4. The parties on 25th September 2025 appeared before court and through the counsel of the court agreed that the children as well as the parents will have lunch together which they did at Hillside Capital hotel.
5. The Applicant deponed that the Applicant collected the children on 29th September 2025 and by 3pm the Respondent had posted stories about them in the social media.
6. The Applicant averred that the Respondent thereafter categorically refused to hand back the children but has instead continued to frustrate the Applicant in all manner of ways.
7. That the elder child has reached her menstrual age and the Respondent will not be in apposition to help her.
8. That the uprooting of the children from the comfort of her home has caused them great stress hence the need to determine the application dated 4th July 2025 as a matter of urgency.
9. The Respondent opposed the application via the replying affidavit he swore on 6th October 2025. He denied that the children were undergoing any stress and that they were enjoying the company and the facilities provided which were not available at the time they were with the Applicant.
10. He denied that he had mistreated the minors and in any case he had enrolled them in school which they were now enjoying. That prior to this they had not been enrolled in any school but instead they were undergoing what is called home-schooling.
11. The court has perused the entire application together with the submissions on board.
12. Without delving into much space in this delicate matter, the best approach is to deal with the application of 4th July 2025 by the Applicant. That application came hot on the heels of the judgment of 26th June 2025.
13. The events of 25th September 2025 when the parties together with the minors attended open court was to see whether legal processes could be circumvented. Of course this came after the judgement of the court and the filing of the application of 4th July 2025.
14. In my view therefore since the parties have decided to take the legal route and avoid some mediated procedure regardless of the existing judgment the court has no option but to accede to their perspective.
15. In the premises the application dated 4th July 2025 be fixed forthwith for hearing as prayed under prayer 4 of the application.
16. The rest of the prayers could as well be dealt with under the application of 4th July 2025.
17. Costs in the cause.

DATED SIGNED AND DELIVERED VIA VIDEO LINK AT NAIROBI THIS 30TH DAY OF OCTOBER 2025.

H K CHEMITEI



JUDGE

