



BI v SKM (Suing as the Mother and Next Friend of AII) (Civil Appeal E020 of 2025) [2025] KEHC 18284 (KLR) (Family) (1 December 2025) (Ruling)

Neutral citation: [2025] KEHC 18284 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT NAIROBI (MILIMANI LAW COURTS)
FAMILY
CIVIL APPEAL E020 OF 2025
CJ KENDAGOR, J
DECEMBER 1, 2025**

BETWEEN

BI APPELLANT

AND

SKM (SUING AS THE MOTHER AND NEXT FRIEND OF AII) . RESPONDENT

RULING

1. The Appellant and the Respondent are parents of AII, who was born on 11th July, 2019 and is a child with special needs. The Respondent sued the Appellant at the Children Court seeking several declaratory orders against the Appellant. She also wanted the Children’s Court to direct the Appellant to pay half of the costs utilized towards the child’s welfare.
2. Before the suit could be determined, the Appellant brought an application before the Children Court, dated 7th January 2025, seeking some injunctive reliefs. He sought a temporary restraining order prohibiting the minor from attending K.S School. He also sought an order directing that the minor should only attend a school agreed upon by the parties.
3. The Children’s Court heard an application by the Appellant and delivered a Ruling on 23rd January, 2025, in which it dismissed the application. The Court directed that the minor continue schooling at the current school (K.S. School) pending the full hearing of the case.
4. The Appellant was dissatisfied with the Ruling and appealed to this Court vide a Memorandum of Appeal dated 29th January, 2025. This Court delivered a Judgment on 31st July, 2025 in which it allowed the appeal and permitted the Appellant to transfer the minor to NUJA or to any other school agreed upon by the parties.
5. The parties have failed to agree on a school for the child.



6. This matter now comes before me over two applications: an application dated 14th August, 2025 by the Respondent seeking a stay of execution of the Judgment of this Court pending the determination of the appeal lodged at the Court of Appeal, and an application dated 2nd September, 2025 by the Appellant seeking that the Respondent be held in contempt and be punished for failing to comply with the judgment on appeal.
7. The parties have not reached an agreement on a school for the child, so the Court must establish an interim arrangement while the Respondent pursues the appeal.
8. There has been significant back-and-forth on various issues concerning the choice of schools, and I decline to make a finding on contempt; the child's best interests remain the top priority.
9. I note that the Respondent has indicated a willingness to pay Kshs. 60,000/- per month towards the child's school fees. I consider this a reasonable interim arrangement, pending the hearing and determination of the appeal
10. An order of stay of execution of the Judgment of this Court is granted pending the hearing and determination of the appeal, subject to the condition that the Respondent shall pay the remaining balance of the school fees at the current school after the Appellant pays Kshs. 60,000/- per term towards the child's school fees.
11. Costs of the applications shall abide by the outcome of the appeal.
12. It is so ordered.

**DATED, DELIVERED AND SIGNED AT NAIROBI THROUGH THE MICROSOFT TEAMS
ONLINE PLATFORM ON THIS 1ST DAY OF DECEMBER, 2025.**

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C. KENDAGOR

JUDGE

In the presence of:

Court Assistant: Beryl

Mr. Jaoko, Advocate for the Appellant

Mr. Nyaga, Advocate, holding brief for Mr. Kamau Muturi Advocate for the Respondent

