



**PMG v PWG (Civil Appeal E196 of 2025)  
[2026] KEHC 1864 (KLR) (Family) (16 February 2026) (Ruling)**

Neutral citation: [2026] KEHC 1864 (KLR)

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

**FAMILY  
CIVIL APPEAL E196 OF 2025**

**CJ KENDAGOR, J  
FEBRUARY 16, 2026**

**BETWEEN**

**PMG ..... APPELLANT**

**AND**

**PWG ..... RESPONDENT**

**RULING**

1. The Appellant and the Respondent are the biological parents of MG, a minor, born on 10<sup>th</sup> September, 2019. They are parties in a case at the Nairobi Children’s Court, Case No. E2035 of 2025. The suit was filed by the Appellant. The matter is pending hearing and determination.
2. The Appellant filed an application dated 12<sup>th</sup> November, 2025 under certificate of urgency and the duty Court allocated the matter to Court 8 and fixed a date for directions before the trial Court. Additionally, the duty Court directed that a comprehensive Children Officer’s report be filed and that the parties consider resolving the matter through court annexed mediation in the first instance. They were provided with the mediation registry contacts for liaison.
3. On 25<sup>th</sup> November, 2025 the trial Court was informed by the Respondent that they had not responded to the pleadings and they sought time. The Appellant sought full access orders during the December holidays. The Respondent conceded to daytime access only on Monday, Wednesday, and Friday from 12 p.m. to 5 p.m. at Juja City Mall, pending the Children Officer’s report. Both parties also confirmed that they were amenable to Court Annexed Mediation.
4. The trial Court, after hearing from both parties, issued the following orders:
  - a. That the Children Officer’s Report be availed as ordered on 18<sup>th</sup> November, 2025;
  - b. That the parties are referred to court annexed mediation;



- c. That the plaintiff (applicant) is granted day time access to the minor on Monday, Wednesday and Friday from 12 p.m. to 5 p.m.;
  - d. That the minor to be picked and dropped at Juja City Mall;
  - e. That mention for status report on mediation on 4<sup>th</sup> February, 2026.
5. The Appellant was dissatisfied with the orders and filed the current appeal in which he outlines eight grounds for his appeal. The Appellant contests the daytime access limitation and argues that the same is unjustified and unreasonable.
6. Alongside the memorandum of appeal, the Appellant filed an application dated 27<sup>th</sup> November, 2025 that seeks the following orders;
  - a. That this application be certified urgent and service thereof be dispensed with in the first instance;
  - b. That pending the hearing and determination of this application, an interim order be issued granting the applicant immediate day time and overnight access to the minor for at least 2 weeks within the month of December, 2025 during the school holidays;
  - c. That pending the hearing and determination of this Appeal, this honourable court be pleased to set aside the trial court order restricting the applicant daytime access only and instead grant the applicant day time and overnight access to the minor pending the hearing and determination of the suit in the lower court;
  - d. That pending the hearing and determination of this appeal the honourable court the applicant be granted access to the minor on alternate weekends during the school term from Friday afternoon to Sunday afternoon without supervision by the respondent;
  - e. That this honourable court do make such further or other orders as may be necessary for the ends of justice;
  - f. That costs of this application be in the cause.
7. At the hearing of the application, the Respondent lodged a notice of Preliminary Objection, and that P.O is the subject of this ruling. The P.O raises the following points of law;
  - i. That the appeal is incompetent, bad in law and defective as the directions appealed from are not appealable orders. The applicant argues that the directions issued by the Children's court are interim and administrative, not determinative of rights, and were issued pending mediation; hence, there is no right of appeal.
  - ii. That the appeal offends the doctrine of exhaustion of remedies as the appellant has not sought a variation of the directions before the Children's court, which retains continuing jurisdiction over interim access directions.
  - iii. That the appeal is premature, inadmissible and an abuse of the court process.
  - iv. That the High Court lacks jurisdiction to entertain the appeal.
8. The jurisdiction of the Children Court is provided for in Section 91 of the *Children Act*. The Children Court conducts civil proceedings on matters set out in Parts III, V, VI, IX, X, XI, XIII, and XV of the Act.



9. Section 99 of the *Children Act* provides as follows;

“Unless otherwise provided under this Act, in any civil or criminal proceedings in a Children’s Court, an appeal shall lie

- (a) in the first instance, to the High Court on points of fact and law; and
- (b) in the second instance, to the Court of Appeal on points of law only.”

10. The Appellant annexed the Order that was extracted from the proceedings of 25<sup>th</sup> November, 2025. Although the orders were made in the interim, they are determinative of the rights of the child and the parties.

11. The Children’s Court maintains ongoing jurisdiction over the cases presented to it, unless there is a stay of proceedings. In children matters, unlike ordinary suits, the Children Court always has jurisdiction to review or vary orders to suit the best interests of the child, which is the paramount consideration. It is, however, not in the child’s best interest to close the avenue to appeal simply because a review has not been applied for.

12. Section 99 of the *Children Act* outlines the avenues for appeal available to parties involved in civil or criminal proceedings before the Children’s Court. If a party is dissatisfied with the proceedings or decisions of the Children’s Court, they have the right to appeal to the High Court in the first instance. This right encompasses not only final judgments but also preliminary proceedings and interim decisions. This ensures that parties can seek appellate determination on any matter of fact or law that affects the rights and interests of the child involved in the proceedings.

13. The appeal is properly before the High Court; the Preliminary Objection is not merited and is hereby dismissed, with an order for costs to abide the outcome of the appeal.

14. In order to expedite the appeal process, the Appellant shall file the record of appeal within 15 days.

15. The matter shall be mentioned for the parties to confirm the status of the mediation process and to take directions for the hearing of the application dated 27<sup>th</sup> November, 2025.

16. Orders accordingly.

**DATED, DELIVERED AND SIGNED AT NAIROBI THROUGH THE MICROSOFT ONLINE PLATFORM ON THIS 16<sup>TH</sup> DAY OF FEBRUARY, 2026.**

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**C. KENDAGOR**

**JUDGE**

In the presence of:

Court Assistant: Beryl

Mr. Munyiri, Advocate for Appellant

No appearance for Respondent

