



**REPUBLIC OF KENYA**

**IN THE HIGH COURT OF KENYA AT NYAHURURU**

**CRIMINAL REVISION NO.10 OF 2019**

**(Application Originating from Nyahururu Children’s Court CC. No.45 of 2019 by: Hon. J. H. Wanyanga - SRM)**

**RWA.....APPLICANT**

**- V E R S U S -**

**REPUBLIC.....RESPONDENT**

**REVISION ORDER**

By a notice of motion dated 17/12/2019, the applicant **RWA** moved this court under **Section 362 of the CPC** to call for and examine Nyahururu Children’s Case No. 45/2019 for purposes of satisfying itself of the correctness of the order issued by **Hon, Wanyanga SRM in JKN vrs RW** on 17/12/2019 and proceed to revise the said orders in the interest of justice.

She seeks orders that CNK, a child of tender years be released from St. Martin’s Children Home and be reunited with the biological mother, the applicant.

I note that the matter before Hon. Wanyanga SRM is not a Criminal matter but one under the **Children’s Act**. The applicant should have filed an appeal and come under certificate of urgency. However, under the supervisory powers of this Court in **Article 165 (6) of the Constitution**, and since this court is proceeding on vacation in two day’s time, and this being a matter involving a child and hence urgent, the court overlooked the defect in the application and directed that all parties appear before it on 19/12/2019 for further orders and directions which they did.

The court has interviewed the child and it is evident that the grandparents and the father are trying to mislead the child to hate the mother. The child even denied that the mother is his mother and he wants nothing to do with her. Both parents and grandparents are warned that what the court is concerned about is the best interest of the child. Since it is evident that the grandparents and father are misleading him to hate one parent, the court will order a scheduled access to try and reverse the effects.

The court has warned the both parents that if they continue to interfere with the child, he may be admitted to a children’s home for his own good because he will be treated as a child in need of care under **Section 119, (1) (q) of the Children’s Act**.

In the meantime, the court directs that the child be released to the mother for the Christmas holiday from today 19/12/2019 till 03/01/2020 when the child should be returned to the father, to attend school.

The child be delivered at the children’s office, Nyandarua North at Nyahururu between noon and 02.00pm on 03/01/2020.

Mention before the trial court for compliance on 14/01/2020.

**Signed and Dated at NYAHURURU this 19<sup>th</sup> day of December, 2019.**

.....

**R.P.V. Wendoh**

**JUDGE**



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