



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI

H.C. ADOPTION CAUSE NO. 74 OF 2004
IN THE MATTER OF THE CHILDREN ACT (NO. 8 OF 2001)

IN THE MATTER OF THE CHILDREN ACT

IN THE MATTER OF N.A..... INFANT

AND

M.A & J.A..... APPLICANTS

J U D G M E N T

This application for adoption was filed in this court on 2nd April, 2004 by M.A. and J.A. (*hereinafter called "the Applicants"*) by way of Originating Summons dated 1st April, 2004 seeking inter-alia for orders to adopt an infant child known as Baby N.A. (*hereinafter called "the Infant"*).

On 17th September, 2004 M.B. was duly appointed as guardian ad-litem of the Infant. When the said application for adoption came for hearing on 18th February, and 22nd April, 2005 the said guardian ad-litem together with Linnet Ouna a Social Worker with Child Welfare Society of Kenya and J.N. Ndung'u (Mrs) an Assistant Director with the Children's Department duly presented their respective reports on both the Applicants and the Infant.

The said Infant comes to this court having been born on 16th January, 2001 to L.A.O. out of a prohibited relationship within the Luhya Community. By that reason, the said unmarried mother, through the office of District Children's Officer, Vihiga District on 17th January, 2001 freely and voluntarily consented to offer the said Infant for adoption. Subsequently, the said Infant was 18th January, 2001 admitted at the New Life Home Trust Kisumu on the authority of the said District Children's Officer and vide the Resident Magistrate's Court at Winam in Care and Protection Case No. 14 of 2001, was formally committed to the said institution then known as Kisumu Rescue Centre on 9th March, 2001. The said Infant was subsequently on 4th April, 2001 transferred to the New Life Home Nairobi for further medical treatment and commencement of foster and adoption proceedings.

The said Infant was on 21st May, 2001 fostered by the Applicants and has since remained in their good care and attention. The District Children's Office, Vihiga District has duly confirmed that since the date the Infant was offered for adoption no one, including the said biological mother has come forward to claim maternity of the said Infant.

The Applicants are man and wife and are respectively citizens of United States of America and Canada. They are Missionaries resident in Kenya and are therefore said to be devoted practicing Christians. According to the reports filed, the said Applicants are fit and proper persons capable of adopting and providing due parental care and attention to the said Infant. This is because, in accordance with the said reports, the said Applicants are said to be in a happy and successful marriage into which they are blessed with four adult biological children and three adopted children in Kenya. The said Applicants are also financially well endowed and are in permanent and sound careers in the Missionary calling.

They have, according to the said filed reports bonded well with the Infant. In accordance with the said reports the Applicants have duly complied with the applicable provisions of the Children Act (**Act No. 8 of 2001**). The said Applicants and their respective parents who were also Missionaries have had long attachment with Africa, the adoptive father having been born and brought up in Kenya prior to proceeding for further education in the United States of America. Thus, according to the said reports, the Applicants, who have lived in Kenya since 1987 are well adapted to manage any crosscultural issues that may arise in the event of making of an adoption order. The said Infant also duly qualifies for adoption having been assessed and declared free for adoption by the Child Welfare Society of Kenya, a registered adoption society as provided under the said Act. The said registered adoption society has duly affirmed the authenticity of the consent to adoption that were granted as aforesaid. The then District Children's Officer, Vihiga District has on oath also affirmed and verified the offer made by the biological mother towards having the said Infant adopted.

I have duly considered all the aforesaid reports together with the pleading filed and presentation made herein. I am convinced that the adoption sought by the Applicants shall be not only for the welfare of the Infant but also in the best interests of the said Infant.

I am satisfied that the Applicants fully comprehend and understand their responsibilities as adoptive parents in respect of this intended cross-cultural adoption. In pursuance of the said application and necessary statutory consent on record as provided under section 158 (4) (a) of the aforesaid Act, I accordingly order that the said Infant be and is hereby adopted by the said Applicants. I further order that the said Infant be renamed B.N.A.A henceforth and direct the Registrar-General to make appropriate entries in the Adopted Children Register accordingly.

DATED, DELIVERED and SIGNED at Nairobi this 13th day of May, 2005.

P.J. KAMAU

JUDGE.



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