



**REPUBLIC OF KENYA**

**IN THE HIGH COURT OF KENYA**

**AT NAROK**

**ADOPTION CAUSE NO. 2 OF 2019**

**IN THE MATTER OF BABY VLN AKA VLM (CHILD)**

**(CORAM: F.M. GIKONYO J.)**

**DNN.....APPLICANT**

**RULING**

**Review of judgment**

1. The significant orders sought in the Notice of Motion dated 18<sup>th</sup> March 2022 are;

**i. Review of the order issued on 25<sup>th</sup> July 2019 to provide more pertinent details for the minor and the nature of the interest acquired by the applicant over the minor.**

**ii. THAT the costs of this application be in the cause.**

2. The Motion is supported by grounds set out in the motion, the supporting affidavit deponed by DNN, the Applicant.

3. The application is based on the following grounds that; -

**i. This court granted adoption orders on 25<sup>th</sup> July 2019 in favour of the applicant but the order extract and issued on 31<sup>st</sup> July 2019 fell short of capturing the required details to enable the applicant enforce and implement the order.**

**ii. There was an error apparent on the face of the record that particulars of the minor including her old name and the new names she intends to adopt were not captured in the final order and also the details of the applicant were not captured in the face of the order hence the need to amendment.**

**iii. The applicant intends to apply for a new birth certificate for the minor and apply for an adoption certificate and the same cannot be achieved by the current order as drafted since it lacks pertinent details required by the institutions implementing the order and this cannot be done until the review of the order is settled.**

**iv. The urgency of the matter is necessitated so as not to cause undue delay and allow execution and implementation of the amended order.**

**v. The parties affected by the order will not be prejudiced by the orders sought since this is an error apparent on the face of record and can be remedied with ease.**

**vi. The orders sought are necessary in the interest of justice as the applicant stand to suffer grave prejudice should the order extracted on 31<sup>st</sup> July 2019 not be amended to reflect the correct interest accrued.**

**The application has been filed without unreasonable delay given circumstances of the matter and the recent change of advocates for the applicant.**

**ANALYSIS AND DETERMINATION**

4. On 31<sup>st</sup> July 2019, Bwonwong'a J. issued an order as follows;

**“That the adoption application is hereby approved.”**

5. The applicant has relied on Order 45 Rule, 1, 2 (1) and 3(2) and Order 51 Rule 1 of the Civil Procedure Rules, Section 1A, 1B and 26(1) of the Civil Procedure Act Cap 21.

6. The application for adoption is premised upon Order 37 Rule 12 of the Civil Procedure Rules, Section 3A of the Civil Procedure Act, Section 160 of the Children's Act 2001.

#### **Issue**

7. Does the request for review of the adoption order herein meet the legal threshold?

#### **Power of Review**

8. Review of court orders and judgments is regulated under the General Rules and Regulations, which was given effect through Legal Notice Number 77 of 2002. The General Rules and Regulations import Order XLIV (now Order 45) of the Civil Procedure Rules which provides for review, into the civil processes under the Children Act. Thereby, making the remedy of review provided in section 80 of the Civil Procedure Act available in adoption proceedings.

9. Ordinarily, the court will review an adoption order where there are errors apparent on the face of the record, or upon a discovery of new matters that could not have been placed, even after due diligence, before the court during the adoption hearing, or for any other sufficient reason.

10. The applicant is seeking for review of the adoption order herein on the basis that there is an apparent error on the face of the record. The error consists in the failure to capture in the order; i) the particulars of the minor including her old name and the new names she intends to adopt, and ii) the details of the applicant. The error has prevented the application for; i) birth certificate and ii) an adoption certificate for the minor.

11. I have perused the Originating Summons. and ruling of 25<sup>th</sup> July 2019. I am satisfied that there is an error apparent on the face of the record in that the order issued on 25<sup>th</sup> July 2019 did not capture pertinent particulars and details of the minor as well as the applicant required under the Act.

#### **Conclusions and Orders.**

12. In the upshot, the court finds that the application for review of the orders of 25/07/2019 to be merited, and is allowed;

#### **13. Accordingly: -**

**1. The adoption Order granted on the 25/07/2019 is hereby reviewed as follows;**

**i. The applicant, DNN, is hereby authorized to adopt baby VLN AKA VLM who shall henceforth be known as VLM.**

**ii. VLM's date of birth shall be 9<sup>th</sup> June, 2013 and her place of birth shall be Narok.**

**2. As a consequence, adoption order be drawn in accordance with this review and be served upon the relevant institutions. This adoption order supersedes the earlier adoption order.**

**3. The Registrar-General is hereby directed to enter this adoption in the Adopted Children's Register.**

**4. The director of civil registration is hereby authorized to issue VLM with a new Kenyan birth certificate.**

**5. Costs be in the cause.**

**DATED, SIGNED AND DELIVERED AT NAROK THROUGH TEAMS APPLICATION, THIS 21<sup>ST</sup> DAY OF APRIL, 2022**

**F.M. GIKONYO**

**JUDGE**