



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI

ADOPTION CAUSE NO. 17 OF 2019

IN THE MATTER OF: AN APPLICATION BY AKK AND ASA FOR AN ADOPTION ORDER

AND

IN THE MATTER OF: ADOPTION OF BABY TA (THE CHILD)

AND

AKK

ASA.....APPLICANTS

AND

LITTLE ANGELS NETWORK....RESPONDENT

JUDGMENT

1. AKK and his wife ASA (the Applicants) have brought this Originating Summons dated 1st March 2019 seeking to adopt Baby TA (the child). The couple is married under Islamic law. Their marriage certificate attached to these pleadings shows that they got married in Uganda on 31st May 2014. They are Kenyan citizens and holders of Kenya National Identity Card Numbers 144***** and 273***** respectively. AKK was born on 17th July 1976 and ASA was born on 8th April 1985. AKK works for [Particulars Withheld] as an accountant earning a net salary of Kshs 135,833 while ASA works as a Sales Representative at [Particulars Withheld] earning a salary of Kshs 109,137.
2. The Applicants reside in Ayany in Kibera within Nairobi City County.
3. The child is a female born on 20th January 2018 to BA aged 17 years and VA aged 20 years at the time. The biological parents of the child are said to be relatives. The pleadings show that a child born of people who are related cannot be nursed or brought in the home of the parents under the local customs of the parents.
4. The families of both biological parents met on 19th January 2018, a day before the child was born, and decided to report the matter to the area Assistant Chief, [Particulars Withheld] Sub-Location in Kakamega County for assistance in surrendering the child for adoption. Upon her birth, the child was placed at Springs of Life Children’s Home on 22nd January 2018. A letter from the Assistant Chief dated 19th January 2018 attest to this.
5. BA and VA the biological parents of the child signed a consent on 26th January 2018 surrendering the child for adoption. Parents of the biological parents (grandparents of the child from both sides) of the child have also consented to having the child placed in a Children’s Home for adoption. The letter of Mr. and Mrs. MA, parents of BA and that of Mr. and Mrs. GM parents VA, are attached to the pleadings. They were guided in signing the consents by an advocate and the effect of their consent was explained to them. They understood that they cannot claim the child once she has been adopted.
6. The child was committed to Springs of Life Children’s Home for care and protection for 3 years through a court order issued at Kakamega Chief Magistrate’s Court through Protection and Care Case No. 6 of 2018.
7. The Applicants applied to Little Angels Networks on 15th January 2018 to be considered for adoption of a child. On 2nd February 2018, the Little Angels Network Case Committee deliberated on the application and was satisfied that the Applicants meet the legal and social requirements for adoption. The Committee approved them for adoption.
8. The Applicants are motivated to adopt a child by a desire to help the less fortunate children in society. The Applicants also do not have

biological or adopted children.

9. The child was placed with the Applicants on 11th June 2018 for foster care and she has been residing with the Applicants continuously from that date.

10. This court (Ongeri J) appointed IYH as guardian ad litem on 2nd May 2019 upon an application by the Applicants. He was directed by the court to investigate the suitability of the Applicants to adopt the child and file a report within 45 days. The Director of Children's Services was also directed to investigate and file a similar report within 45 days.

11. The report of the Guardian Ad Litem filed on 29th July 2019 is favourable and recommends that the Applicants be allowed to adopt the child. That of the Director of Children Services is dated 7th November 2019. It is equally positive and recommends that the Applicants be allowed to adopt the child. I have read both reports and I am satisfied with the information contained therein.

12. The child has been freed for adoption. A Certificate declaring her free for adoption was issued by Little Angels Networks on 31st May 2018. A report from Little Angels Networks bearing the same date is also attached.

13. The Applicants have proposed AAH brother of 1st Applicant and AA sister in law to him as legal guardians of the child. Both have consented to being appointed as legal guardians.

14. I have considered this matter. I have noted from the letter of apology written by BA that she confirms that she and the father of the child VA are relatives. They do not say the nature of their relationship. Their parents have also confirmed the same. I have also noted that they have explained that a child born of sexual relationship between relatives cannot be raised within the family. It is unfortunate that the child herein had to be born out of such circumstances.

15. The report from the Children Services confirms that the Children's officer talked to both parents of BA and VA and confirmed from them they are the authors of the letters dated 12th January 2018 (Mr. and Mrs G A) and 28th December 2017 (Mr. and Mrs. M A). In the two letters the two families have confirmed that they wish to willingly release the baby to an institution for adoption. They have also stated that they will not claim the baby in future.

16. I am satisfied that the law under Part XII of the Children Act (No. 8 of 2001) and procedure has been followed in freeing the child for adoption. The Applicants are suited to adopt the child. They are capable, as attested by the reports from Little Angels Network, Guardian Ad Litem and Children Services that the Applicants are in a position to take care of the child and bring her up with love she has been denied by being rejected by her biological parents and grandparents.

17. I am also satisfied that law and procedure has been followed in freeing the child for adoption and in confirming that the Applicants are suited to adopt her. For the above reasons I will and do hereby allow the Originating Summons and grant an adoption in the following manner:

- (a) THAT prayer 1 is hereby granted. The child Baby TA is hereby declared a Kenyan citizen.
- (b) THAT the AKK and ASA, the Applicants herein be and are hereby authorized to adopt Baby TA.
- (c) THA Prayer 3 of the Originating Summons is hereby granted to the effect that the child shall be known as ISK henceforth.
- (d) THAT prayer No. 4 of the Originating Summons is granted. AAH and AA are hereby appointed Legal Guardians of ISK.
- (e) THAT the Registrar General is hereby directed to make an entry of this adoption in the Register of Adoptions.
- (f) THAT the estimated date of birth of ISK be and is hereby indicated as 20th January 2018.
- (g) THAT Ismael Yassin Hassan is hereby discharged from being Guardian Ad Litem of Baby TA.

18. Orders to issue accordingly.

Dated, signed and delivered on 22nd April 2021.

S. N. Mutuku

Judge