



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI

ADOPTION CAUSE NO. 130 OF 2019

IN THE MATTER OF SK

FK.....1ST APPLICANT

GL.....2ND APPLICANT

RULING

1. Before me is an Originating Summons dated 30th September 2019 filed under Sections 154, 156(1), 157(1), 158, 160(1), 163(1), 164(1) and 170 of the Children Act 2001, and Section 24 of the Interpretation and General Provisions Act (Cap. 2) for the adoption of SK a minor.

2. The substantive matters for my decision now relate to prayers 3 and 4 as follows –

3. That the applicants be authorized to adopt SK a minor.

4. That the minor be known as SNL and the same be marked on the adoption register.

3. The application was filed with a STATEMENT of the two applicants FK and GL dated 30th September 2019 which annexed a number of documents.

4. Subsequent to the filing of the application the court appointed STS as guardian ad litem for the minor and ordered the Director of Children Services to file their report on the suitability of the applicants to adopt the minor.

5. The guardian ad litem STS filed her report dated 17th February 2020 in which she recommended that the adoption of the minor by the applicants be granted.

6. The Director of Children services also filed their report on the suitability of the two applicants to adopt the minor dated 28th February 2020 signed by Ezekiel Kimani - Chief Children Officer and countersigned by Mary Mbugua - Assistant Director Children Services, in which it was stated that the two applicants who were wife and husband were fit to adopt the child and that the adoption was in the best interests of the minor.

7. When the matter came up for hearing before court, Ezekiel Kimani - Chief Children Officer appeared before court virtually and adopted the report of the Director of Children Services. The virtual hearing of the matter was conducted due to the COVID-19 pandemic situation.

8. This is a request by a wife and husband for the adoption of a female child who is aged 12 years. I note that the child is a biological daughter of FK one of the applicants, from a previous marriage which was later dissolved by the court in Milimani Chief Magistrate's Court Divorce Cause No. 2 of 2011, in which decree absolute was issued by the court on 29th September 2011.

9. From the facts disclosed to me, the purpose of the request for adoption is for the child herein to be recognized as a child of the couple who are now married and who have two other children together.

10. In considering this application, I have taken into account the provisions of Section 158 of the Children Act the relevant parts of which provide as follows –

158(1) An adoption order may be made upon the application of a sole applicant or jointly by two spouses where the applicant or at least one of the joint applicants –

(c) is the mother or father of the child.

11. In the present case, the joint applicants are a married couple and one of the applicants – FK is the biological mother of the minor. The two applicants were married after the birth of the child and both want to adopt the child. Having considered the facts and evidence placed before me, as well as the provisions of the Children Act, I am of the view that the adoption of the child herein by the two applicants is in the best interests of the child. I thus allow the application and order as follows –

(a) The applicants be and are hereby authorized to adopt SK a minor.

(b) The minor will be known as SNL and the same be marked by the Registrar General in the Adopted Children Register.

Dated and delivered at Nairobi this 17th September, 2020.

George Dulu

JUDGE

Due to COVID-19 pandemic the ruling was delivered through electronic video system.