



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT KERICHO

ADOPTION CAUSE NO.1 OF 2018

IN THE MATTER OF THE CHILDREN ACT (ACT NO.8 OF 2001)

AND

IN THE MATTER OF BABY AI alias EK (CHILD)

RULING

1. Before me is an originating summons dated 30th January 2018 brought under section 159 (1) (a) (i), 160 and 164 of the Children Act No.8 of 2001 for the adoption of Baby AI alias EK by ACS a single female applicant.

2. The prayers in the application now for my decision are as follows:

1. (spent)

2. (spent)

3. that ACS be authorized to adopt the male child currently identified and known as child AI *alias* EK.

4. That RKC and RC of Post Office Box Number xxx, Kericho who are brother and sister in law to the applicant respectively be appointed guardians to take care of the minor should any misfortune befall the applicant.

5. That the child be renamed EK.

6. That the child be declared a Kenyan Citizen.

7. That the Registrar General does make appropriate entries in the Adopted Children's Register.

8. That the court does issue any further orders and directions as are in the interests of justice.

3. The application was filed with a supporting affidavit sworn by the applicant. She deponed that she worked in [particulars withheld] and had applied to adopt the child.

4. A certificate declaring the child as free for adoption dated 14th November 2015 Serial No.xxxxx issued by Change Trust and Adoption Society was also filed.

5. The Department of Children's Services Kericho filed its report on the case dated 23rd July 2018 as ordered by the court signed by Jane Rono assistant Director of Children Services Kericho.

6. On the hearing date, Mr. Mwita who appeared for the applicant urged the court to allow the adoption. Jane Rono the Assistant Director of Children Services, adopted her report and supported the adoption. With regard to a male child being adopted by a female applicant, she said that the evidence available was that the applicant had given good motherly love to the child.

7. I have considered the application, documents filed and oral evidence and submissions made in court.

8. This is a request for adoption of a male child by a single female applicant. Section 155 (2) of the Children Act of 2001 contains limitations to such adoption. The Adoption Committee of the Children Department circulated guidelines vide CDEW/62/N/ADS/VOL.1 (33) dated 13th January 2010, and for a sole Kenyan female applicant to adopt a male child the conditions are-

- 1) when the child is a relative
- 2) when the child has special needs and the applicant is willing and has capacity to take care of the child
- 3) where the applicant has adopted or has another biological child or children over whom she is willingly exercising parental responsibility
- 4) where the adopted child has a sibling who is also being adopted by the applicant
- 5) proposed applicant in the only person available to adopt the child
- 6) where the applicant is the legal guardian of the child or children appointed by will or in adoption proceedings and the parents die or become permanently incapacitated.

9. The applicant does not have any other child, and is single aged about 48 years. The report from the Children Department supports the proposed adoption.

10. With the above regulations in mind, this case falls under condition 5 that -

“proposed applicant is the only person available to adopt the child”.

11. It is apparent from the information and documents availed to me that the applicant has treated the child well, as any other child would be treated by a parent. She has the means to bring up the child, and so far she is the only person able to adopt the child. In my view, the adoption is in the best interests of the child.

12. I thus allow the Originating Summons and grant prayers 3,4,5,6 and 7. The Children Officer, Kericho may visit the applicant and child from time to time. Copy of this ruling to be served on the Children Officer Kericho.

Dated at Kericho this 21st June 2019.

George Dulu

JUDGE