



REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA AT KISII
ADOPTION CAUSE NO. 02 OF 2013
IN THE MATTER OF THE CHILDREN ACT

AND

IN THE MATTER OF GT AKA AGMN

AND

AB AKA AMN

NOM

KMM.....APPLICANTS

JUDGMENT

1. The applicants, **NOM** and **KMM** through their re-amended Originating Summons dated 12th February 2013 and amended on 6th August 2019 seek for orders to be authorised to adopt infants **GT Aka AGMN** and **AB aka AMN**. They also seek that **JSM** be appointed the legal guardian of the children. The applicants have also sought that the children be presumed to be Kenyan citizens and the Registrar General make the appropriate entries of the infants as **AGMN** and **AMN**.
2. Kenyans Peace Initiative Adoption Society filed its reports for both children on 26th June 2019. Concerning the first child, GT aka AGMN, the report states that he was born on 2nd January, 2007 out of a rape incident of a close relative of the mother. The mother of the child gave consent to give up the child for adoption. The child was committed to the care of New Life Home Trust on 11th April, 2007 through the Children's Court in Winam vide Protection and Care No. 58 of 2007. On 30th November 2010, the infant was placed under the care and control of the applicants who were desirous of adopting him and took up the care of the child from then. The report declares that adoption will be in the best interest of the child and further declares the child free for adoption under Section 159 (a) (i) of the Children Act. The Society has issued a certificate dated 10th July, 2010 No. 613 declaring the child free for adoption.
3. Regarding **AB aka AMN**, the report by Kenyans Peace Initiative Adoption Society states that the child was born on 5th September 2006 and was found abandoned on 5th September 2008 at Gikomba market. The matter was reported at Kamkunji Police Station and on 9th November 2009, the child was committed to the care of Happy life Children Home by the Children's Court in Nairobi vide Protection and Care No. 309 of 2009. Kamkunji Police Station confirmed that no one had come forward to claim the child. The child stayed in the children's home until 2nd July 2010 when he was placed under the care and control of the applicants. Since then he had been living with the applicants and had been enjoying their parental love, care and good nurturing. The report declares that adoption will be in the best interest of the child and declares him free for adoption under Section 159 (a) (i) of the Children Act. The Society has issued a certificate dated 16th July, 2010 No. 612 declaring the child free for adoption.
4. Pursuant to the order of this court dated 28th June 2019, Beatrice M. Obutu, the County Children Coordinator filed a report on 5th August 2019 recommending the adoption of the children by the applicants. The report gives a background of the adoptive parent's marriage, family relationships, educational background, work experience and financial ability. The children officer observes that the prospective parents have devoted themselves to giving the best of their time and resources to their prospective adoptive children and have the support from their immediate family member and the extended family.
5. The applicants' daughter **AGN** swore an affidavit on 9th August, 2019, giving her approval of the adoption of the children by her parents. **PMM**, who is the guardian ad litem also filed a favourable report on 15th August 2019.
6. The legal guardian **JSM** consented to his appointment as such in his affidavit filed on 13th August 2019.

7. Having considered the application, I find that it is in the best interest of the children be adopted by the applicants. The adoption agency has explained that the parent of **GT** aka **AGMN** gave him up for adoption and have never returned to claim the child back. The County Children Coordinator also gave a background of the child and noted that the mother did not give a subsequent consent to the adoption of the child. I therefore dispense with the consent of the biological parents of the child.

8. The agency has also declared that **AB** aka **AMN** was abandoned as an infant and remained unclaimed. As the child's parents have never been traced, I similarly dispense with their consent.

9. I allow the applicants to adopt **GT** aka **AGMN** who shall be called **AGMN** henceforth. I also allow the applicants to adopt **AB** aka **AMN** who shall henceforth be called **AMN**. **PMM** is discharged as a guardian ad litem and **JSM** is appointed as legal guardian to the children. The Registrar of Births shall make the appropriate entries of **AGMN** and **AMN** in the adopted children's register. The children shall be presumed to be Kenyan Citizen. It is so ordered.

Dated, signed and delivered at Kisii this 25th day of October 2019.

R.E.OUGO

JUDGE

In the presence of;

Mr. Magara h/b Miss Mogusu For the Applicants

Applicants – 1st applicant Present

2nd applicant Absent

Ms. Rael Court Clerk