



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT KERICHO

ADOPTION CAUSE NOS. 1 & 2 OF 2017

IN THE MATTER OF BABY D K *alias* D M *alias* D S N (CHILD)

AND

IN THE MATTER OF BABY J C *alias* J N N (CHILD)

N A S.....1ST APPLICANT

S J N.....2ND APPLICANT

JUDGMENT

1. The applicants, N A S and S J are husband and wife married under Tugen customary law in 1988. They are aged 63 and 47 years, born in 1954 and 1970 respectively. By their applications dated 14th February 2017 in Adoption Cause No. 1 of 2017, the applicants seek to be authorised to adopt the male child currently identified and known as **D K *alias* D M *alias* D S N**. In Adoption Cause No. 2 of 2017, the applicants seek to be authorised to adopt the female child currently identified and known as **J C *alias* J N N**.

2. From the affidavits and statements on record, it appears that the 1st applicant was polygamous. In his affidavit sworn on 21st November 2017 pursuant to orders of this court, the 1st applicant avers that he was married to his first wife N C S (deceased) in 1976. She died in childbirth in 1982. He had two children with his first wife, and they have both filed statements indicating their consent and support for the applicants to be authorised to adopt the two children the subject of the applications. He had a second wife, C C, whom he avers deserted the family home in 2002, leaving six children whom he has raised with the 2nd applicant.

3. The applicants earn their living from farming and keeping of livestock. They own a parcel of land of approximately 24 acres in Narok South District, Olulung'a Division. Their homestead is located on the parcel of land, and they plant maize and other food crops and rear livestock on the land.

4. **D K *alias* D M *alias* D S N**, the subject of Adoption Cause No. 1 of 2017, was presumably born on 20th September 2006. He was found abandoned on 9th October 2006 at the sewage area, Nakuru. The matter was reported to the Nakuru Police Station vide OB No. [Particulars withheld]. He was admitted at the Africa Gospel Church Baby Centre in Nakuru on 10th October, 2006 and committed to the home under Protection and Care Case Number 374 of 2006 by the Children's Court in Nakuru. Efforts to trace his parents were unsuccessful, and he was declared free for adoption on 19th November, 2008. He was placed with the applicants on 9th December, 2008.

5. In Adoption Cause No. 2 of 2017, the applicants seek to adopt the child currently identified and known as **J C *alias* J N N**. She was presumably born on 6th February 2009, and was abandoned at the Provincial General Hospital, Nakuru, casualty area, on 6th April 2009. The fact of her abandonment was recorded in OB No.66/30/4/09 from the Nakuru Police Station. She was admitted at the Africa Gospel Church Baby Centre on 29th April 2009 and committed to the centre through Protection and Care Case No.407 of 2009. She was freed for adoption by the Kenya Children's Homes Adoption Society on 13th April, 2010, and placed with the applicants on 25th June, 2010.

6. On 7th April 2017, the court appointed M C T the Guardian *ad Litem* in respect of the two children. It also directed that the Director, Children's Services, investigate and file a report on the fitness or otherwise of the applicants to adopt the children.

7. In his undated report filed in court on 14th June, 2017, the Narok North sub-county Children's Officer indicates that he paid a home visit to the applicants on 31st November 2016 (which the court presumes is a reference to 30th November 2016). The report indicates that the male child, **D S N**, then aged 11, is a class 4 pupil at [particulars withheld] Primary School, while the female child, **J N N**, is in class 2 at [particulars withheld] Primary School. He observes that after visiting the applicants and the children at their home, he is satisfied that the applicants are financially and emotionally capable of taking care of the children. He also notes the strong bond between the children and the prospective adoptive parents, and recommends that they be allowed to adopt the children.

8. The Guardian *ad Litem* filed a report dated 6th October, 2010. She describes the applicants as hardworking and stable people who are capable of providing a good upbringing for the children.

9. I have considered the two applications before me and the documents filed in support. I also observed the applicants and the children when they appeared before me at the hearing of the applications, and i noted that the children are well taken care of and appear to have a strong bond with the applicants.

10. I have also considered the reports filed by the Narok North Sub-County Children Officer and the Guardian *ad Litem* with respect to the fitness or otherwise of the applicants to adopt the two children the subject of the applications. I note that the reports rate the applicants highly and express the view that it would be in the best interests of the children for the court to grant the orders that the applicants seek.

11. Accordingly, I will allow the applications dated 14th February 2017 in Adoption Cause Nos. 1 and 2 of 2017. The applicants are allowed to adopt the male child currently identified and known as **D K alias D M alias D S N**. The child shall be renamed **D S N** and his date of birth shall be 20th September, 2006. He is declared a citizen of Kenya.

12. I also hereby authorise the applicants to adopt the female child currently identified and known as **J C alias J N N**. The child shall be renamed **J N N**. Her date of birth shal be 6th February, 2009. She is declared a citizen of Kenya.

13. The Registrar General is directed to make the appropriate entries in the Adopted Children's Register in respect of the two children, and the Registrar of Births and Deaths to issue birth certificates in respect of the children.

14. **D O M** and **L C O** are hereby appointed legal guardians of the children should any misfortune befall the applicants.

15. The Guardian *ad Litem* is hereby discharged.

16. It is so ordered.

Dated Delivered and Signed at Kericho this 16th February, 2018.

MUMBI NGUGI

JUDGE