



**REPUBLIC OF KENYA**

**IN THE HIGH COURT OF KENYA AT KERICHO**

**ADOPTION CAUSE NO. 8 OF 2017**

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

**AND**

**IN THE MATTER OF D C AND M C (CHILDREN)**

**K K K.....1<sup>ST</sup> APPLICANT**

**A K.....2<sup>ND</sup> APPLICANT**

**JUDGMENT**

1. The applicants, K K K and A K have by their application dated 24<sup>th</sup> August 2017 sought the authority of the court to adopt the children currently identified and known as D C and M C. The applicants are husband and wife, married in 2012 in Kansas, United States, where they reside.
2. The 1<sup>st</sup> applicant, K K K is 44 years old, having been born on 11<sup>th</sup> December 1973. He is a pilot by profession and the paternal uncle of the children the subject of this adoption cause. He is a citizen of Kenya and has passport number [Particulars withheld] and identity card number [Particulars withheld].
3. The 2<sup>nd</sup> applicant, A K (A S) is 43 years old, born on 7<sup>th</sup> January 1975. She is a citizen of the United States as evidenced by her passport number [Particulars withheld]. She is a nurse by profession.
4. From the documents annexed to the application, it appears that the 1<sup>st</sup> applicant, the elder brother of the children's biological father, has always taken care of the two children. He states that their parents, his younger brother and his wife, are of limited means and have not been able to take care of the children, and the applicants would like to assume full parental responsibility for them.
5. The children the subject of this adoption are sisters. D C was born on 16<sup>th</sup> March 2005 to M K K and L C K. She is now 13 years old. The second child is M C, born on 21<sup>st</sup> September 2007, and is now 11 years old. The parents of the children gave their consent to the adoption of their children on 10<sup>th</sup> April 2014 as indicated in the Social Inquiry form from the KKPI Adoption Society filed with the application. Attached to the application is also a letter from the parents dated 10<sup>th</sup> April 2017 consenting to the children being adopted by the applicants.
6. On 17<sup>th</sup> November 2017, this court appointed Mr. R K T as the Guardian *ad Litem* in respect of the children. The court also directed the Director, Children's Services, to investigate and file a report on the applicants' fitness or otherwise to adopt the children the subject of this application.
7. In his report dated 8<sup>th</sup> May 2018, the Guardian *ad Litem* notes that the parents of the two children are both unemployed and are not able to manage the upkeep of their children.
8. In his report filed in court on 8<sup>th</sup> December 2017, the Children's Officer, Bureti, notes that the children's father, the 1<sup>st</sup> applicant's younger brother, has little means of earning a living. He and his wife have two other children, A C aged 7 years and T C aged 4 years.
9. The Children's Officer observes that the applicants are both in salaried employment in the United States, as a pilot and nurse respectively. They are financially stable and have the resources to take care of the children. The Children's Officer recommends that they be allowed to adopt the children.
10. I have considered the application before me and the documents and affidavits filed in support. I have also considered the reports by the

Guardian *ad Litem* and the Sub-county Children Officer, Kericho. I note that all the reports recommend that the applicants should be authorised to adopt the children as such adoption would be in their best interests.

11. I further note that this is an intra family adoption, with the 1<sup>st</sup> applicant and his wife adopting his younger brother's children whom the 1<sup>st</sup> applicant states they have been taking care of all along and would like to assume full parental responsibility for.

12. From the financial records annexed to the application, it is evident that the applicants are financially able to take care of the children. They are over 21 years older than the children but below the age of 65 years, and so they meet the requirements under the Children Act for adoption. They are described by the Children Officer as Christians, mature and responsible persons. Based on the reports from the Kansas Bureau of Investigations in Topeka, Kansas, where they reside, they have no criminal record.

13. I have also confirmed from the biological parents of the children, who were present in court, that they have freely consented to the adoption of their children by the applicants and understand the implication of the making of adoption orders in favour of the applicants.

14. I am therefore satisfied that in the circumstances, it is in the best interests of the children to allow the applicants in this cause to adopt them. Accordingly, I hereby authorise the applicants to adopt the children, D C and M C. The children are citizens of Kenya and their dates of birth as indicated in their birth certificates are 16<sup>th</sup> March 2005 and 21<sup>st</sup> September 2007 respectively.

15. The Registrar General shall make the appropriate entries in the Adopted Children's Register.

16. I appoint G C K, the 1<sup>st</sup> applicant's sister, as the children's legal guardian should any misfortune befall the applicants.

17. The parental rights of the children's biological parents are hereby terminated, and the Guardian *ad Litem* is hereby discharged.

18. It is so ordered.

**Dated, Delivered and Signed at Kericho this 19<sup>th</sup> day of October 2018.**

**MUMBI NGUGI**

**JUDGE**