

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI

(FAMILY DIVISION)

ADOPTION CAUSE NO. 14 OF 2015

IN THE MATTER OF AN APPLICATION FOR ADOPTION OF BABY M aka BABY S

RULING

1. The applicant, J N G, is a Kenyan citizen. She is a single. She seeks to adopt Baby M also known as Baby S. Her Originating Summons is dated 19th January 2015. The matter was heard 9th March 2017 and reserved for judgement.

2. In the course of preparing the judgement, I noted from the report by the Director of Children Services, dated 23rd November 2016, that the instant cause is by a female applicant who seeks to adopt a male child, contrary to the law on adoptions. The Director proposed that that issue ought to be addressed.

3. At the hearing, the applicant did not advert to that matter. The representative for the Director too did not address it, only stating that the Director recommended the adoption.

4. The provision which deals with that is section 159(2)(b) of the Children Act, Cap 141, Laws of Kenya, which states as follows-

‘An adoption order shall not be made in favour of the following persons unless the court is satisfied that there are special circumstances that justify the making of an adoption order –

(a) ...

(b) A sole female applicant in respect of a male child ...’

5. Under that provision the female applicant seeking to adopt a male child must satisfy the court as required as to special circumstances. The circumstances must be addressed in the report of the agency arranging the adoption, and must be adverted to at the hearing. None of that has been done in the present case.

6. I am unable to give final orders in the present cause unless there is full compliance with that law.

DATED, SIGNED and DELIVERED at NAIROBI this 19TH DAY OF MAY, 2017.

W. MUSYOKA

JUDGE