



**REPUBLIC OF KENYA**

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

**ADOPTION CAUSE NO. 183 OF 2015 (OS)**

**IN THE MATTER OF T A M M M (A MINOR)**

**AND**

**IN THE MATTER OF SECTION 176 OF THE CHILDREN'S ACT, NO. 8 OF 2001**

**RULING**

1. The Originating Summons dated 17<sup>th</sup> July 2015 seeks one order, that the adoption order made by the Federal First Instance Court of Addis Ababa in the Federal Democratic Republic of Ethiopia on 10<sup>th</sup> March 2011 be made an order this court.

2. The applicant, B M M, is the adoptive father of the said T A M M M, hereinafter referred to as the subject child. He avers in his affidavit in support of the application, sworn on 17<sup>th</sup> July 2015, that he adopted the subject child from Ethiopia in 2010. He would like the adoption allowed by the Ethiopian court to be recognised by the Kenyan courts.

3. He has attached two documents to his said affidavit. There is a contract of adoption executed on 28<sup>th</sup> December 2010 between the applicant and his wife, S M M-M, on one part, and Ye Ethiopia Misgana Wongelawit Betechristian Yelimat Ena Yebego Adragot Dirijit, the orphanage caring and protecting the child prior to adoption, on the other. The said contract placed the child with the applicant and his wife for adoption purposes, subject to the said contract not taking effect until approved by the court. The other document is a judgement of the Federal First Instance Court of Addis Ababa, dated 10<sup>th</sup> March 2011, approving the contract of adoption dated 28<sup>th</sup> December 2010 and therefore permitting the adoption of the subject child by the applicant and his wife.

4. The application before me is premised on Section 176 of the Children Act. Section 176 of the Children Act dwells on the effect of overseas adoptions. It provides as follows:-

*“176(1). Where a person has been adopted (whether before or after the commencement of this Act) in any place and the adoption is one to which this section applies, then, for the purposes of this Act and all other written laws, the adoption shall have the same effect as an adoption order validly made under this Act, and shall have no other effect.*

*(2) Subsection (1) shall apply to an adoption in any place outside Kenya, if-*

*(a) the adoption order was made by any court of law in the Commonwealth and any court of competent jurisdiction in any other country.*

*(b) ...*

*(c) ...*

*(3) An adoption order made overseas in favour of an adoptor who is resident in Kenya shall be lodged in the court within the period and in the manner specified in the rules made by the Chief Justice.”*

5. The adoption order in question was made by a court of law in Ethiopia. I am enjoined by section 176

(2)(a) of the Children Act to recognise an adoption order made by any court of competent jurisdiction in any other country, in addition to a Commonwealth country. ‘**Any other country**’ includes Ethiopia. I have noted the endorsements on the certified copy of the judgement from the Ministry of Justice of Ethiopia and the Ethiopian Ministry of Foreign Affairs authenticating as a true judgement of a competent court in Ethiopia. I have further noted that all the adoptors are Kenyan citizens. I am persuaded that the prayer sought in the application is available for granting.

6. Consequently, I allow the application by way of the Originating Summons dated 17<sup>th</sup> July 2015 in its entirety, and hereby adopt the judgement of the Federal First Instance Court of Addis Ababa in the Federal Democratic Republic of Ethiopia delivered on 10<sup>th</sup> March 2011 as a judgement of this court.

**DATED, SIGNED and DELIVERED at NAIROBI this 29<sup>TH</sup> DAY OF JANUARY, 2016.**

**W MUSYOKA**

**JUDGE**