



REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA AT ELDORET
ADOPTION CAUSE NO. 2 OF 2015
IN THE MATTER OF THE CHILDREN ACT
AND
IN THE MATTER OF AN APPLICATION FOR ADOPTION
BY E.K.R. & K.A.
AND
IN THE MATTER OF ADOPTION OF C.K., P.J.,
G.J. & B.K. (MINORS)

JUDGMENT

1. The applicants, *E.K.R.* and *K.A.*, are husband and wife. The minors named above are *orphans*. Their mother, *S.B.*, died on 4th February 2013 from pulmonary tuberculosis as per the death certificate annexed to the report of Kenya Children's Home. The children were left under the care of their *grandfather*, *J.R.* The latter is a brother to the father of *E.K.R.*, the 1st applicant.
2. Due to financial difficulties, the minors' grandfather requested *E.K.R.* to support the minors; and, to adopt them. *E.K.R.* is a Kenyan citizen by birth and an *uncle* to the minors. The couple resides in Eldoret, Uasin Gishu County. They have been giving financial support to the minors including their living expenses, school, travel and medical fees. This is thus a *kinship* adoption.
3. The couple has presented an *ex parte* originating summons dated 14th May 2015. It is brought under the Children Act and the Regulations thereunder. The applicants pray for three reliefs: first, that the court do appoint a guardian *ad litem* for the four minor children; that such reports and documents be filed in court to demonstrate the propriety, suitability or fitness of the couple to adopt the minors; and, thirdly, that the applicants be authorized to adopt the four children.
4. The application was supported by the sworn joint statement of the couple dated 14th May 2015. Their marriage certificate is annexed showing the union was solemnized at P.C.E.A Bible School, Eldoret on [*particulars withheld*] under the African Christian Marriage and Divorce Act (now repealed). The couple intends to reside in the Republic of Kenya indefinitely. They have two biological children: *G.K.* and *S.R.* The four minors who are the subject of these adoption proceedings are all Kenyans. The couple had lived with the minors for *three months* prior to lodging the application for adoption. Taking into account the

lapse of time since the presentation of the summons, the couple has lived with the minors for nearly *ten months*.

5. The husband is a social worker; the wife is a teacher. Their combined gross salary is Kshs 120,000 per month. *E.K.R.* owns ancestral land. It is leased out for Kshs 2,500 a month. The couple also earns rental income of Kshs 55,000 a month from their house. They also run an *M-pesa* business. After meeting household expenses, school fees and related costs, their net income is about Kshs 78, 120. Those details are confirmed in the report by Kenya Children's Home, a registered adoption society, filed on 10th June 2015.

6. On 19th May 2015, and after interviewing the couple and the minors, the court appointed a guardian *ad litem*.

7. The report by Society, is dated 4th June 2015. It details at length the matters I have referred to, the particulars of the minors' grandfather, and each of the four minors. In the opinion of the Society, the applicants have a solid marriage, are committed Christians and have the wherewithal to take care of the minors. The consent of the minors' grandfather is annexed. There is also consent by *G.J.* (now aged fifteen and the oldest of the four minors). There are four certificates issued by the society in respect of each minor declaring them *free for adoption*.

8. I have found that the prospective adoptive mother is committed to assisting the minors. The minors are all attending school. They were orphaned at an early stage in life. Like I stated, this is a *kinship* adoption. The prospective adoptive parents have confirmed that the children will inherit their property in the same manner as their two biological children.

9. Section 154 of the Children Act provides that the High Court has power to make adoption orders. I observed the demeanor of the minors in court on 19th May 2015 and 18th January 2016. They all seem to have bonded well with the applicants. It is in the *best interests* of the minors that they be adopted by the applicants. The applicants are related to them. The 1st applicant is their uncle. *G. J.*, who is about fifteen years now, and the oldest of the four minors, has *accepted* to be adopted as required by section 158 (4) (f) of the Act. I am also satisfied that the children will be in contact with the rest of their extended family. The applicants have demonstrated their *bona fides* to be good parents. I have reached the conclusion that they have the *financial and emotional capacity* to raise the children.

10. Upon the grant of the adoption order, the applicants shall assume all parental rights and duties of the biological parent. They shall treat the adopted children as their own. The applicants are aware that an adoption order is final and binding during the lifetime of the children; and, that the adopted children shall have the right to inherit the property of the applicants. The applicants cannot give up the children owing to unforeseen behavior or other changes in their character.

11. In the end, I am satisfied that the legal requirements for a local adoption have been met. I therefore grant the following orders-

- a) That the applicants be and are hereby allowed to adopt *C.K., P.J., G.J. and B.K.*;
- b) The names of the children shall remain *C.K., P.J., G.J. and B.K.*;
- c) That the Registrar General is directed to enter this adoption order in the adoption register; and
- d) That the guardian *ad litem* is hereby discharged.

It is so ordered.

DATED, SIGNED and DELIVERED at **ELDORET** this 22nd day of January 2016

GEORGE KANYI KIMONDO

JUDGE

Judgment read in chambers in the presence of-

Mr.....for the applicants instructed by Terer & Company Advocates.

Mr. Lesinge, Court clerk.