



REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA AT MILIMANI
ADOPTION CAUSE NO. 274'B' OF 2015 (OS)
AND
IN THE MATTER OF THE CHILDREN'S ACT
(NO. 8 OF 2001)
AND
IN THE MATTER OF G W O, A CHILD
JUDGEMENT

1. The applicants, A J A O and E A O, are Kenyan citizens. They are a married couple. They seek to adopt G W O. Their originating summons is dated 11th November 2015.
2. The child in question was born on 20th April 1998 to the male applicant and one T O O, during wedlock. The couple subsequently divorced through a decree pronounced in Kisumu CMDS No. 10 of 2009 on 19th March 2010, where the custody of the subject child was granted to the male applicant.
3. The male applicant began to cohabit with the female applicant in 2009, going by the averments in their joint affidavit of marriage, sworn on 15th May 2015. I have noted from the judgement of 19th March 2010 that the male applicant and the birth mother of the child had been living apart since 2002, before the divorce proceedings were initiated in 2009. The applicants subsequently contracted marriage at the office of the Registrar of Marriage on 30th July 2015, and a certificate of marriage serial number 140976 was duly issued to them. They have between them a biological child, born to them on 17th September 2014.
4. This is an adoption within the family for the subject child is proposed to be adopted by his biological father and his step-mother.
5. The child was freed for adoption by the Change Trust adoption society by their certificate of 18th August 2015. The child has been with the male applicant since birth and the female applicant since 2009..
6. To facilitate this adoption, the applicants have been assessed by the Kenya Children's Homes Adoption Society and the guardian *ad litem*, Barrack Awour Andiego. The assessment of the Director of Children Services was dispensed with on 19th February 2016. The report by Kenya Children's Homes Adoption Society is dated 12th January 2016, while that of the guardian *ad*

litem is dated 1st March 2016.

7. All these reports are favourable and recommend the proposed adoption. The applicants have demonstrated that they have the financial and emotional capability and capacity to take care of the child. The child himself appears to have bonded well with them and he considers them to be his parents.
8. In the opinion of this court it would be in the best interests of the child that he is adopted by the applicants. The applicants will be able to provide a home and a family for the child to grow up in and thereafter be a useful member of the family. Consequently, the applicants shall assume all parental rights and duties of the biological parents in respect of the adopted child; they shall treat the adopted child as if he was born to them. The applicants have been made aware that once the adoption order is made it shall be final and binding during the lifetime of the child and that the child shall have the right to inherit their property. The applicant cannot give up the child owing to any subsequent unforeseen behaviour or other changes in the child.
9. I have noted that the biological mother of the child gave a written consent to the adoption by a letter dated 25th May 2015 addressed to the Chief Administrator of the Kenya Children's Homes Adoption Society.
10. I am satisfied that all the legal requirements for a local adoption have been met, and I therefore make the following orders:-
 - a. **That the applicants, A J A O and E A O, are hereby allowed to adopt the child, G W O;**
 - b. **That it is hereby declared that the subject child is Kenyan by birth;**
 - c. **That F O O and M A O are hereby appointed legal guardians of the child in the event something untoward happens to the applicants;**
 - d. **That the Registrar-General is hereby directed to enter this adoption order in the adoption register; and**
 - e. **That the guardian *ad litem* is hereby discharged.**

DATED, SIGNED and DELIVERED at NAIROBI this 24TH DAY OF MARCH, 2016.

W. MUSYOKA

JUDGE