

REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA AT MILIMANI
ADOPTION CAUSE NO. 10 OF 2016 (OS)
AND
IN THE MATTER OF THE CHILDREN'S ACT
(NO. 8 OF 2001)
AND
IN THE MATTER OF SMS (A CHILD)
RULING

1. The Originating Summons dated 21st December 2015 is purported to be brought at the instance of one SMK 1, seeking to have the adoption order made on 2nd July 1999 by the Mumbai City Civil Court, allowing PSM and AMK to adopt 'the applicant SMS, to be made an order of the court.
2. The grounds upon which it is predicated, which are set out on the face of the application, indicate that the applicant, who is stated in the intitulment as SMK 2, had been adopted by the said PSM and SMK 2, a British citizen.
3. The affidavit in support of the application was sworn by SMK 1 on 21st December 2015. The deponent describes himself as 'adoptive father of the applicant.' The intitulment of the said affidavit identifies the applicant as SMK 1. It would appear that SMK 1 is purporting to be the adoptive father of the applicant, who is also called SMK 2.
4. There is attached to the application, a certificate of marriage, serial number 20769, attesting to a marriage celebrated on 28th September 1984 between one MKS and RLS. The annexure is supposed to support the contention that SMK 1 had, jointly with his adoptive mother, presumably RLS, adopted the applicant.
5. The other annexure is a certified copy of the Judge's Order in Mumbai City Civil Court Misc. Petition No. 148 of 1999, dated 28th June 1999, which comprised the adoption order the subject of the proceedings. According to the said order, the petitioner was one MPS.
6. On the face of it, the person at whose instance the originating summons is brought, SMK 1, does not appear to be the same person as the one to whom the adoption order of 28th June 1999 by the Mumbai court favoured, MPS. No attempt has been made in the application to connect the applicant, SMK 1, to the person in the adoption order, MPS.
7. In the circumstances it would appear that the applicant does not have sufficient interest in the adoption to warrant the orders sought. I find the Originating Summons to be misconceived. I hereby strike out the same.

DATED, SIGNED and DELIVERED at NAIROBI this 27TH DAY OF MAY, 2016.

W MUSYOKA

JUDGE