

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT LODWAR

ADOPTION CAUSE NO. 1 OF 2015

IN THE MATTER OF THE CHILDREN ACT 2001

AND

IN THE MATTER OF B A MINOR

S B E 1ST APPLICANT

M N W 2ND APPLICANT

JUDGEMENT

The applicants **S A E** and **M N W** are married couple and are Kenyan citizens. They married in 1978. They have not been blessed with a biological child of their own. The 1st applicant has 3 children from a previous marriage namely **V E B** aged 20 years, **A O E** aged 16 years and **M E B** aged 10 years, all male. The applicant stated that the 2nd applicant developed complication in her uterus which has made her unable to have a child. The applicant stated the motivation for adoption was to care for the baby Angel to have a permanent home and be brought up in a family set up and also have a girl in their family. The 1st applicant works with [particulars withheld] company Lodwar and he 2nd applicant works as a receptionist in Lodwar. They have combined income of about shs.25000/= per month. The applicants profess Christian religion and are Catholics by denomination. Both do not suffer from any medical complication that can hinder them from bringing up the child.

Baby **A M** was born on 20/6/2012 at Kakamega Provincial Hospital. The biological mother **J M** was at the time aged 17 years old, and an orphan. She informed Child Welfare Society of Kenya that the father of the child was her cousin. The child was therefore born out of a case of incest and therefore a taboo child in the Luhyia community. Accompanied by her guardian, she asked the Child Welfare Society of Kenya that she wanted to give up the child for adoption. Consequences of her action were explained and she gave the necessary requisite written consent. After completion of the procedure, the child welfare society declared baby Angel free for adoption vide certificate No.[particulars withheld] dated 21/1/2013. On 29/1/2013 Baby **A** was placed with the applicants where she has been to date.

The legal requirements for the adoption process have been filed in this file. The consent of the biological mother of the baby has been filed. The guardian and litem, **A O A** has filed her report in which she vouched for the good moral standing of the applicants whom she has known for over 8 years; the children officer's report prepared by and on behalf of the Director of Children Services by the children officer Turkana where a home visit to the applicants home was made which is described as good with a modern house with 2 bed rooms that is self-contained; a Declaration report by the Child Welfare Society of Kenya which recommends that child is in need of family care where she will be accorded a permanent family, care and protection which she is in need of and declared the child free for adoption. All these statutory reports are favourable to the applicants. The reports of the home visits show that the applicants are people of stable character, good moral understanding and have financial and emotional capacity to provide for the upkeep and education of the child.

Having complied with the legal requirements and reports submitted before this court, the court nevertheless is required under section 4(2) of the Children Act to consider whether the adoption orders

sought would be in the best interest of the child. Baby A was born out of a relation with a cousin which was therefore incest. The child is therefore a taboo child in their community. Such a child cannot therefore be raised within the same family as they are viewed to be sources of bad omen.

The best interest of the child will therefore require that she be raised in a stable loving family environment. From the reports submitted the application would be able to provide the perfect home environment for her growth and development.

The applicants have been staying with the child since 29/1/2013, I observed the applicants and the child in court and they displayed a close and emotional attachment and I am satisfied that they have bonded well.

I am therefore satisfied that the applicants are suitable adoptive parents.

I therefore grant the orders of adoption and direct that the applicants do undertake all the duties and responsibility as parents and that Baby A do be given the name of M A E and all appropriate documents do reflect the same.

Dated at Lodwar this 27th day of July, 2016

S N RIECHI

JUDGE