

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI

FAMILY DIVISION

ADOPTION CAUSE NO. 240 OF 2015

IN THE MATTER OF THE CHILDREN ACT, 2001

AND

IN THE MATTER OF BABY SSH (MINOR)

R M AAPPLICANT

JUDGMENT

R M A (“the Applicant”) by the Originating Summons application filed on 28th September, 2005 sought to be allowed to adopt S Sh H (“the Baby”). The Applicant is a female adult who is single. She has a son B I A who resides in U. S. A. She is 60 years of age and therefore would want to adopt the said baby S S H who she has lived with and taken care of since she was born.

The child who is the subject of the adoption proceedings was born on 28th March, 2003 to H S A; the Applicant’s half brother and his wife K S A. They gave up the child voluntarily to the Applicant soon after birth. The child’s biological parents have filed formal consents to the proposed adoption. The parents’ letter of consent and the Isiolo Chief’s letter dated 10th August, 2015 are marked “**RMA 2**”. The extended family and the child’s biological siblings support the adoption and the family members’ consents are attached and marked “**RMA 3**”. The siblings’ consents are from MSH, SAH, ASH and BIA all siblings to baby SSH.

This is a kinship adoption process. Change Trust Adoption Society conducted interviews and investigation in this matter and filed a report on 4th December, 2015. It was established the baby is the fifth child born to the biological parents and they voluntarily gave up the child to the Applicant. The child has since 2003 lived with the Applicant and the parents and siblings have been visiting the child in Nairobi as they reside in Isiolo. The child was interviewed and she consented and confirmed that she lives with the Applicant and visits her family in Isiolo. The child is in good health vibrant and with normal development. The adoption Agency after interview and investigation recommended the adoption. The case Committee declared the Child SSH free for adoption vide Certificate Number 00029 attached to the report.

The Ministry of Labour Department of Children Services filed their report on 18th April, 2016. After interviews and investigations the Department of Children Services recommended the adoption as it involves close family relatives and they have all consented and there is no dispute. The Applicant also met all the legal requirements from the Local Adoption under the **Children Act 2001**.

The guardian ad litem Ms. AM filed her report on 6th January, 2016 after conducting home visits and interviews. The child is in standard seven (7) in New Era Preparatory School. She lives with the Applicant; her aunt and her grandmother and other relatives nearby. The guardian ad litem recommended the adoption.

The Applicant has been assessed and she has no criminal record. She is financially and socially stable. She was an administrator and logistics officer with the American Embassy for many years before retirement. She is healthy and should be able to see the child through to adulthood. She is Muslim by

faith and Islam recognizes and accepts adoption.

All the statutory reports that have been filed in respect of the proposed adoption of the child by the Applicant have recommended that this Court allows the Applicant to adopt the child. This Court has evaluated the facts of this adoption. This is a local adoption. It is evident that the Applicant has fulfilled all the legal requirements relative to the adoption of the child. The consents of the biological parents of the child are filed. The parents and child were present in Court and confirmed the same. This Court has satisfied itself that the Applicant is qualified and able to take care of the child. The home visits by the guardian ad litem, the Adoption Society and the Director of the Children Services established that the Applicant has the financial and emotional capability to provide for the upkeep and education of the child. This Court observed the Applicant with the child in Court and it was evident that in the period that the Applicant has had the custody of the child, the child has bonded well with her. The child considers the Applicant to be her mother.

On the basis of a careful examination of the documents presented before me as well as the observations made therein, this Court has formed the opinion that it would be in the best interest of the child to be adopted by the Applicant. Hence, this Court allows the Applicant's application. The Applicant, RMA, is hereby allowed to adopt Baby SSH. Her date of birth shall be 28th March, 2003. Her place of birth shall be Nairobi County. She is presumed to be a citizen of Kenya by birth. The Applicant's son BIA shall be the legal guardian of the child should such eventuality arise.

This Court directs the Registrar General to duly enter this order in the Adoption Register. The guardian ad litem is hereby discharged. It is so ordered.

DELIVERED AND SIGNED IN OPEN COURT AT NAIROBI THIS 16TH DAY OF AUGUST, 2016

M. W. MUIGAI

JUDGE

In presence of: