



REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA
AT NAIROBI
ADOPTION CAUSE NO. 211 OF 2014
IN THE MATTER OF THE CHILDREN ACT, 2001
AND
IN THE MATTER OF S A - MINOR
DR. M F S.....1ST APPLICANT
U S S.....2ND APPLICANT

J U D G M E N T

The Applicants Dr. M F S and Mrs. U S. S are nationals of Germany. They were married on 15th April, 2003. The 1st Applicant is a teacher and the 2nd Applicant a teacher in Germany. They have been here in Kenya briefly for purposes of the completion of proceedings. The Applicants have not been blessed with children of their own due to medical reasons. The Applicants wish to adopt a child. The Applicants approached the relevant authorities in Germany with a view to securing the requisite approvals to enable them adopt a child, specifically a foreign child. A home study report was prepared by Little Angels Network, an accredited adoption service provider in Kenya which was approved by Protestant Adoption Centre in Germany.

The Applicants were further approved by the District Administrator's Office Gottingen dated 6th August, 2013. Under the Germany Government adoption laws, it is the said District Administrator's office which has jurisdiction to approve the application by the applicants to adopt a child.

The National Adoption Committee in Kenya duly approved the application by the Applicants to adopt a child in Kenya. The approval certificate to that effect was issued on 25th February, 2014.

Baby S A the child, the subject of this adoption proceeding is estimated to be born on 19/2/2011 in Homabay. The child was found abandoned on 20th May, 2012. She was rescued by one J G of Makongeni estate, who reported the incident to Homabay Police Station on 20th May, 2012.

The child was referred and admitted to Homabay children Home on 25th June, 2012 for care and protection. She was committed by the Homabay Court to the custody and care of the said Children's home by an order issued on 25th June, 2012 pending formal adoption proceedings.

The child was placed the custody of the Applicants on 28th May, 2014 for compulsory care since then, the

child has been under the continuous care and custody of the applicants.

According to the Police, their efforts to trace the biological parents of the child have been in vain. No one came forward to claim the child. Reports to that effect have been filed in Court.

This Court therefore approves with the Consent(s) of the biological parents to the proposed adoption by the Applicants. Little Angels Network, an adoption society, issued a certificate declaring the child free for adoption. The certificate is dated 30th October, 2013.

The court read the reports prepared by Little Angels Network, the local adoption society, the Director of Children's Services and by F D A O, the guardian ad litem. All the above reports are favourable and recommend the applicants' application to adopt the child. This is an international adoption. There are certain conditions that the applicants must fulfill before this court can allow them to adopt the child. The first condition is that the applicants must be approved by the relevant adoption authorities in their country of origin. In the present case, the applicants have been assessed and approved by the relevant authorities in their country of origin, Germany to adopt a foreign child, and specifically a Kenyan child. The second condition is that the applicants must be approved by the National Adoption Committee in Kenya to adopt a child in Kenya. The applicants have been assessed by the said National Adoption Committee. A certificate has been issued by the said committee approving the applicants' application to adopt a child in Kenya. The third condition is that the applicants must satisfy the court that they have fulfilled the legal requirements regarding the adoption, including having custody of the child for a sufficient period to enable bonding to take place. This period must not be less than three (3) months. It was clear to the court that the applicants have fulfilled all the legal requirements in respect to international adoption. The applicants have had the custody of the child since 10th June, 2014. In the period that the child has been in their custody, the child has bonded with them. This was evident from the reports prepared by the Director of Children's Services, the guardian ad litem and the local adoption society. The applicants have established that they have the financial and emotional capability to take care of the child.

Having evaluated all the reports on record, and the applicants' application seeking to be granted permission to adopt the child, it was clear to this court that it would be in the best interest of the child for the application for adoption to be allowed. The applicants have given an undertaking that they shall allow access to the approved adoption society in their country of origin to undertake post-adoption supervision for a period of three years from the time of the issuance of this adoption order. The applicants have executed an undertaking that if this court grants the adoption order, they will permanently assume all the 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 in their marriage; they have been made aware that once the adoption order is issued, it shall be final and binding during the lifetime of the child that they shall adopt; that the child shall have the right to inherit their property; that an adoption order cannot be recanted, and further, that they shall not give up the child owing to any subsequent unforeseen behaviours or other changes in the child; that the adoption society in the (Germany foreign adoption society) shall provide annual follow up reports on the progress of the child to the adoption society in Kenya (local adoption society) for a period of three (3) years from the date of the arrival of the child in Germany; that the applicants undertake to allow the representatives of the foreign adoption society in Germany free access to the child at any reasonable time. The applicants further give an undertaking that they shall accord their citizenship to the child.

In the premises therefore, this court finds that the applicants have met the criteria set for international adoptions. The applicants, M F S and U S S are hereby authorized to adopt Baby S A. The child shall henceforth be known as S A L S. His date of birth shall be 19th December, 2011. Her place of birth shall be Homabay District, Kenya. E C S Sister to the 1st applicant are hereby appointed to be the legal guardians of the child should misfortune befall the applicants. The Registrar General is hereby directed to enter this order in the Adoption Register. The guardian ad litem is hereby discharged. It is so ordered.

DATED AT NAIROBI THIS 23rd DAY OF JANUARY, 2015

M. MUIGAI

JUDGE

READ AND SIGNED IN OPEN COURT IN THE PRESENCE OF:

Ms. Ngonga Holding brief for Ms. Kamuyu for the Applicant.