



REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA
AT NAIROBI
ADOPTION CAUSE NO. 273 OF 2014
IN THE MATTER OF ADOPTION OF BABY J (THE CHILD)
And
IN THE MATTER OF THE APPLICATION FOR ADOPTION
BY
K P M & L O M.....APPLICANTS

JUDGMENT

1. The applicants **K P M AND L O M** reside in Copenhagen Hillerodgade 73, 2th.2200 N. Denmark. K is thirty four years and L is thirty years old. K and L first met at a meeting within Jehovah's witnesses in 2005 and married in November 2007. They greatly enjoy each other's company and have many common interests. The 1st applicant is a citizen of Denmark while the 2nd applicant is a citizen of Norway. Their marriage is not polygamous neither is it homosexual. They have received approval to proceed with the adoption by the Greater Copen Hagen Joint adoption council.

2. The couple has wished to have a child together for a long time and they have also received fertility treatments for a long time. The couple have not been able to get a biological child of their own. However the couple has now given up the thought of a biological child and instead opted for adoption as a solution to their childlessness.

3. The couple made their application to adopt a child through AC-International Denmark Adoption Society an Adoption Agency in Denmark which is registered by Kenya's National Adoption Committee to work with Kenya Children's Homes Adoption Society – Kenya, in making inter-country adoption arrangements. The applicants' were approved by the Kenya's National Adoption Committee sitting of 17th June 2014 as suitable adoptive parents. The couple were thereafter matched with the minor J from Thomas Barnado House, Nairobi whose documents were sent to Denmark. The case worker at AC-international Denmark took them through the child's profile and they were in agreement that J was the child they desired to adopt. The National Adoption Committee sitting on 17th June 2014 found the applicants suitable prospective adoptive parents as per the Children (Adoption) Regulations 2005 and gave its approval for an individual adoption application. The Ankestryrelsen the Division of Family Affairs in their letter dated August 2013 confirmed that Kenyan adoption orders will be recognised immediately by Denmark and the Danish Embassy in Nairobi will be authorised by the Danish authorities to issue a Danish passport to the future adoptive child upon the presentation and adoption register for the child. The child will automatically obtain Danish citizenship. The M's subsequently travelled to Kenya

and arrived on 16th August 2014. They were thereafter introduced to J whom they bonded with for three days and after a successful bonding period at the children's home J was placed under their care on 21st August 2014 under a care and control agreement between the applicants and the Kenya Children's Home Adoption Society. The applicants have been living at Kitisuru gated community since the time they arrived in Kenya.

4. The minor was presumably born on 10th March 2013. He was abandoned on 8th July 2013 by an unknown person at Mlolongo market on the floor of J K D's stall. A neighbour informed J K and her husband that there was a baby at their work place. They immediately rushed there and found that it was true. The baby was lying there wrapped in a lesa. They immediately rescued him with the help of members of the public and took him to Mlolongo Police station. Statements by the rescuing police office & the Good Samaritan are both dated 16th July 2013. J was admitted at Thomas Barnado House On 16th July 2013 as a child in need of care and protection. The medical information available shows the child has grown normally and his HIV status is negative. The home has ensured that the child has received all the immunization as per the Kenya Expanded Programme on Immunisations guidelines. The child was committed to Thomas Barnado House for care and protection at the Nairobi children's court Milimani on 21st August 2013 vide Protection and care case No. 265/2013 for a period of three years. The Mololongo police station has asserted that since when the matter was reported at their station, no one has gone to claim the child.

5. The minor was freed by the Kenya Children's Homes Adoption Society case Committed on its sitting of 18th June 2014 and a freeing certificate serial No. **[particulars withheld]** issued pursuant to section 156 (1) of the Children's Act 200. Mr. J T and Mrs. S-L T of Passport Number **[particulars withheld]** and **[particulars withheld]** respectively are the proposed legal guardians in this adoption application.

6. The applicants have fulfilled all legal requirements relating to the adoption of the child as prescribed in the Childrens Act 2001. The Director of Children's Services also filed a report as did the guardian ad litem, S M M both reports were favourable and recommended the adoption of the child by the applicants. The applicants are both financially and emotionally capable to provide for the up keep and education of the child.

7. After a careful assessment of the reports filed herein and from the observation of the interaction of the Applicants and the child during the hearing, this court has formed the opinion that it would be in the best interest of the child to be adopted by the Applicants. The application is therefore allowed. The Applicants **Ka P M** and **L O M** are hereby allowed to adopt baby **J**. He shall henceforth be known as **J P M**. **Mr. J T** and **Mrs. S-L T** shall be the legal guardians of the child should misfortune befall the applicants. I direct the Registrar General to enter this order in the adoption register. The child was born in Kenya and is therefore a Kenyan by birth and is entitled to all the rights that accrue to Kenyan Citizens under the Kenya Constitution 2010 and the Kenya citizenship and Immigration Act. I hereby discharge the Guardian ad litem.

It is so ordered.

Dated signed and delivered this 27th Day of **March** 2015.

R. E. OUGO

JUDGE

In the Presence of:

.....**Applicants.**

.....**Court Clerk.**

