



REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA AT NAIROBI
ADOPTION CAUSE NO. 61 OF 2014
IN THE MATTER OF THE CHILDREN ACT AND
IN THE MATTER OF M M SON OF M A (CHILD)

BY

M A M.....1ST APPLICANT

S M M..... 2ND APPLICANT

JUDGMENT

1. The applicants **M A M** and **S M M** seek to be authorized to adopt **M M** son of **M A** a child. They also seek that the consent of the biological mother be dispensed with. That the child be declared a Kenyan Citizen. That upon making of the adoption orders the child be known as **M M Son of M A M** and the Registry-General to make the appropriate entry in the adopted children' register.
2. The applicants are married but have no child of their own. The child was born to the biological brother and sister in law of the 2nd applicant on the 1st of February 2009 in Pakistan, Lahore District. The applicants were offered the child by Sabina biological brother and wife immediately the child was born. The legal process took them until 7th February 2009 for the child to be legally adopted by the female applicant through Lahore High Court in Pakistan. The adoption deed which is annexed indicates that the parents of the child gave up the child for adoption out of their free consent. The applicants came with the child to Kenya when he was three weeks old.
3. In the deed of adoption it's indicated that the child will remain in the adoptee's, 2nd applicant's custody forever and that the first party **M A** would never claim the return of the child.
4. The reports from the Child Welfare Society of Kenya indicates that the child was declared free for adoption on the 9th of May 2014 and a certificate No. **[particulars withheld]** was issued on the said date. The said report indicates further that the applicants have met all the requirements of the law and qualify to adopt. That the applicants have been married for over 20 years and their marriage is stable, they are financially stable and are able to meet the needs of the child without a strain and it recommends the adoption.
5. The parties have satisfied section 157 and 158 of the Children's Act, they have both attained the age of 25 years are at least 25 years older than the child and yet not over 65 years old.
6. The child in question was adopted on 7th February 2009 as evidenced by the adoption deed issued by the High Court at Pakistan, Lahore District. In essence the applicants had already adopted the said child

they seek to adopt now. Section 165 provides that, “an adoption order or an interim adoption order, may be made in respect of a child who has already been the subject of an adoption order under this Act or under any other Act or ordinance for the time being in force in any country in the commonwealth.

(2) in relation to an application for an adoption order in respect of such a child, the adopter or adopters under the previous or last adoption order shall be deemed to be parents of the child for the purpose of this part.”

7. The child the applicants seek to adopt came to Kenya when he was 6 weeks and brought the application to adopt him when he was about 5 years old when this application was made. Section 156(1) No arrangements shall be commenced for the adoption of a child unless the child is at least six weeks old and has been declared free for adoption by a registered adoption society in regards to this rules prescribed in that behalf.

8. The said child was born in Pakistan on 1st February 2009. The Children’s Act under Section 157 provides for children who may be adopted it provides that, “Any child who is resident within Kenya may be adopted whether or not the child is a Kenyan citizen, or was or was not born in Kenya.”

9. It is evident that the applicants have fulfilled the legal requirements relating to the adoption of the child in line with section 156, 157 and 158 of the Children’s Act.

10. This court is satisfied that the applicants are qualified and able to take care of the child. It is evident that the applicants are financially stable and capable to provide for the upkeep and education of the child. It was evident that in the period that the applicants have had the custody of the child, the child bonded well with them.

11. This court finds that it would be in the best interest of the child to be adopted by the applicants. I allow the application for adoption. The Applicants **M A M** and **S M M** are hereby allowed to adopt Baby **M M**. He shall henceforth be known as **M M Son of M A M**. **M A M** shall be the legal Guardian of the child should misfortune befall the applicants. I direct the Registrar General to enter this order in the adoption register.

12. The applicants have sought the child to be declared a Kenyan citizen. The child is a Pakistani by birth and is adopted by applicants who are Kenyan citizens. Article 15(3) provides that, “A child who is not a citizen, but is adopted by a citizen, is entitled on application to be registered as a citizen.”

The Kenya citizenship and Immigration Act section 14 provides that, “A child who is not a citizen, but is adopted by a citizen, is entitled on application in the prescribed manner by the adopting parent or legal guardian to be registered as a citizen upon—

(a) the production of proof of the Kenyan citizenship of the adopting parent;

(b) the production of a valid adoption certificate issued in a reciprocating state or other jurisdiction whose orders, decrees are recognized in Kenya; and

(c) proof of lawful residence of the child in Kenya.

Kenya citizenship and Immigration Act section 2, defines “application” to mean a request in a prescribed form made under the said Act. The applicants on obtaining the relevant documentations can make an application for citizenship for the child with the relevant body. I hereby discharge the Guardian ad litem. It is so order.

Dated signed and delivered this **12th** Day of **March** 2015.

R. E. OUGO

JUDGE

In the Presence of:

.....**Applicants.**

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