



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI

ADOPTION CAUSE NO. 88 OF 2015 (OS)

IN THE MATTER OF THE CHILDREN'S ACT NO. 8 OF 2001

AND

IN THE MATTER OF ADOPTION OF BABY S N

ALIAS BABY J

BY

R H J T AND S I T (APPLICANTS)

JUDGMENT

1. The Applicants, **R H J T** and **S I T**, are of Danish origin and in a monogamous marriage which was solemnized at the Groesbeek on 3rd April 2010. They have no child of their own. They have brought an Originating Summons dated 1st April 2015, seeking permission to adopt **Baby S N alias Baby J**, an infant of male sex. **R H J T** is the Country Manager with Point Shop A/S in Denmark, while **S I T** is a counsellor of children, adolescents and family with [Particulars Withheld] They reside in [Particulars Withheld] Court E9, Yaya Centre and are both Christians.
2. The child who is the subject of this adoption proceedings was found abandoned at infancy at the post natal ward of Mbagathi District Hospital, by his mother S N where she was admitted. The matter was reported at Kenyatta Police Post and an entry made vide OB No.[Particulars Withheld] . On 11th September, 2012 the child was admitted to [Particulars Withheld] Children's home for care and protection. On 6th August, 2014 the child was officially committed to the same Children's Home by the Senior Resident Magistrate Children's Court Nairobi, vide P&C Case No. 147/2014 for a period of three years. A letter dated 17th May, 2013 from Kenyatta Police Post confirms that no one has gone to claim or inquire after the child.
3. The child was declared free for adoption on 27th October, 2014 by the Kenya Children's Home Adoption Society vide certificate No.[Particulars Withheld]. He was released into the custody of the Applicants for mandatory foster care pending adoption on 1st January 2015. Since then he has been in the continuous custody and care of the Applicants. Prior to the hearing of the adoption application, Kenya Children's Home, an adoption Society prepared and filed a report in court.
4. The Adoption Society and guardian ad litem have all made home visits and established that the Applicants are financially and emotionally capable of providing for the up keep and education of the child. The Director of Children's Services who cited the moratorium on foreign adoption by the Cabinet, did not file a report. The guardian ad litem, M/s. Sabina Mueni Mutuku filed a report

that was favourable and recommended the adoption of the child by the Applicants.

5. The Adoption Council Report of Denmark dated 27th September 2013 , the Kenya National Adoption Committee held on 22nd July, 2014, Danish Ministry of Social Affairs, Children and Integration, The Division of Family Affairs, National Social Appeals Board, Central Authority in Denmark, in accordance with the Hague Convention on the Protection of Children and Cooperation in Respect of Inter-country Adoption of May 29th 1993, confirmed that the above Applicants have been approved by the Danish authorities. According to a Communique from the said office dated October, 2013 and annexed to the Originating Summons, a Kenyan adoption would be recognised immediately in Denmark and the Danish Embassy in Nairobi will have authority to issue the child with a Danish passport upon presentation of the adoption order. The child will at the same time obtain Danish citizenship.
6. The proposed adoption also received local approval by the Kenya Children's Home Adoption Society and by the Adoption Committee meeting held on 22nd July, 2014 vide approval certificate No. [Particulars Withheld] dated 19th August, 2014. When the Director Children Services declined to provide a report to the court, an application dated 29th June 2015 was brought before the court. Upon consideration and on the basis of the best interest of the child, Musyoka J ordered in a ruling dated 8th September 2015 that the report of the Director of Children Services could be dispensed with.
7. From the foregoing I am satisfied that all the legal requirements for an international adoption have been met, and consequently I will make the following orders:
 - a. That the Applicants, **R H J T** and **S I T**, are hereby allowed to adopt Baby **S N alias Baby J**, who shall be hereinafter known as **J N T**;
 - b. His date of birth shall be presumed to be 28th June, 2012.
 - c. He is presumed to have been born in Kenya and the place of birth shall be Mbagathi Hospital.
 - d. That the child is presumed to be Kenyan by birth.
 - e. That **L A T** and **J L T** (sister and brother in law to the female Applicant) respectively are hereby appointed as the legal guardians of the child, should the Applicants die or become permanently incapacitated before the child attains the age of majority.
 - f. That the Registrar-General is directed to enter this adoption order in the Adoption Register;
 - g. That the Director of Immigration is hereby authorised to issue the child with a Kenyan passport.

The guardian ad litem is hereby discharged.

It is so ordered.

SIGNED DATED and **DELIVERED** in open court this **22nd** day of **September 2015**.

L. A. ACHODE

JUDGE