



REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA AT NAIROBI
ADOPTION CAUSE NO. 93 OF 2014
IN THE MATTER OF THE CHILDREN ACT (CAP 141)
AND
IN THE MATTER OF CHILD L. a.k.a N.P.
AND
IN THE MATTER OF AN APPLICATION FOR ADOPTION BY
F K N AND C W K

RULING

1. The applicants' application to be allowed to adopt baby L a.k.a N.P was denied by this court on its judgment delivered on 18th November 2014 for two reasons: one that the applicants had failed to file their respective certificates from the police showing them to be of good conduct and therefore fit to adopt the child as provided for by **section 158(3)** of the **Act**; and, secondly, that the child herein had been placed with the applicant before being declared free for adoption, an offence under **section 156(3)** of the **Children Act**.
2. They have filed the present application dated 8th April 2015 seeking review of the judgment denying them the adoption orders and that the court grants the order for adoption, or in the alternative order for fresh hearing of the adoption cause. The application is premised on grounds that this court in its judgment denying the adoptions gave certain conditions that the applicants had to comply with, conditions that they have subsequently complied with and thus the need for review which would be in the best interest of the child.
3. In the affidavit in support of the application, it was averred that the applicants have each obtained certificate of good conduct indicating they neither of them had criminal records. Further, that the Child Welfare Society had clarified that the freeing certificate was issued on 8th March 2014, before the child herein was placed with the applicants for adoption, and not 9th January 2014 as was previously indicated in the application for adoption.
4. I have carefully considered the application together with the documents filed in support thereof. The application was brought under **Order 45** of the **Civil Procedure Rules** which provides that a person aggrieved by a decree or order and who from the discovery of new and important matter or evidence which, after the exercise of due diligence, was not within his knowledge or court's can be produced by him at the time when the decree was passed or the order made, or on account of some mistake or error apparent on the face of the record, or for any other sufficient reason, desires to obtain a review of the decree or order, may apply for the review of the same.

5. The applicants have explained that the adoption society handling the adoption process did not require them to each provide certificate of good conduct, hence the omission to file the same. They have since complied and filed the said certificates indicating that they have no criminal records. Further, on the issue of the child being placed with the applicants before being declared free for adoption, the Child Welfare Society, through their C.E.O. Irene Mureithi, averred that the child was declared free for adoption on 8th March 2013 and placed with the applicants for fostering on 10th April 2013. Further, that the freeing certificate erroneously indicated the date of freeing as 9th January 2014 instead of 8th March 2013, an error which had now been corrected to reflect the correct date.
6. On the basis of the new evidence availed, I find that this is a proper case for review. I allow this application and shall make the following orders:
 - a. F K N and C W K are hereby allowed to adopt baby L. who shall henceforth be known as N P K;
 - b. the child shall be presumed to be Kenyan having been found abandoned near Baraka Hospital in Kariobangi estate of Nairobi County within Kenya;
 - c. R M N is hereby appointed the legal guardian of the child should anything happen to the applicants before she is of age;
 - d. the Registrar General is directed to enter this adoption in the Adopted Children Register;
 - e. the Director of Immigration Services is hereby ordered to issue N P K with a Kenyan passport; and
 - f. the guardian *ad litem* is hereby discharged.

DATED and DELIVERED at NAIROBI this 23rd November, 2015.

A.O. MUCHELULE

JUDGE