



REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA AT MILIMANI
ADOPTION CAUSE NO. 262 OF 2013 (OS)
AND
IN THE MATTER OF THE CHILDREN'S ACT
(NO. 8 OF 2001)
AND
IN THE MATTER OF S A W (MINOR)
JUDGEMENT

1. The applicants, S M and J K M, are a married couple who citizens of the United States of America but of Kenyan origin. They have filed the Originating Summons dated 30th October 2013 seeking the court's permission to adopt the Kenyan female child known for the purpose of these proceedings as S A W.
2. S A W, the subject of these adoption proceedings, is an orphan. She was born on 18th November 2004 to N W, a sister of the male applicant, and a father whose identity has not been disclosed to the court, and who is said to be unknown to the applicants. The mother of the child died during the month of April 2012. Before her death, the deceased granted legal guardianship of the child to the applicants. The child lives with her maternal relatives in Limuru as she could not move to the United States of America with the applicants for lack of the relevant papers.
3. This adoption process is being arranged by the Little Angels Network adoption agency, which freed the child for adoption purpose on 19th December 2012 and issued a certificate of even date to that effect.
4. To facilitate the adoption the applicants have been assessed by the Director of the Children's Services and the guardian *ad litem*, E M K. These two have compiled and filed their reports in court dated 5th November 2013 and 29th November 2013, respectively.
5. All these reports are favourable and recommend the proposed adoption. The applicants have demonstrated that they have the financial and emotional capability and capacity to take care of the child. The child appears to have bonded well with the applicants and she considers them to be her parents. I note that the applicants have one biological child of their own.
6. The Kenyan National Adoption Committee approved the proposed adoption on 21st August 2013, and has issued a certificate to that effect dated 18th September 2013. I have noted the relevant assessments done by American authorities and agencies and I find all of them to be favourable and

positive.

7. In the opinion of this court it would be in the interests of the child that the child the subject of these proceedings is adopted by the applicant. The applicant will be able to provide a home and a family for the child to grow up in and thereafter be a useful member of the family. Consequently, the applicants will be required to execute an undertaking that they shall assume all 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. The applicants have been made aware that once the adoption order is made it shall be final and binding during the lifetime of the child and that the child shall have the right to inherit their property. The applicants cannot give up the child owing to any subsequent unforeseen behaviour or other changes in the child.
8. I am satisfied that all the legal requirements for an international adoption have been met. The applicants, S M and J K M, are hereby allowed to adopt the child, S A W. Her name shall hereafter be S A W M. I also hereby appoint E A legal guardian of the child should anything untoward happen to the applicants. The Registrar-General is directed to enter this adoption order in the adoption register. The guardian *ad litem* is hereby discharged.
9. The child was born to a known Kenyan parent in Kenya. She is therefore Kenyan by birth, and is entitled therefore to all the rights that accrue to Kenyan citizens by virtue of the provisions of the Constitution of Kenya 2010 and the Kenya Citizenship and Immigration Act.

DATED, SIGNED and DELIVERED at NAIROBI this 16th DAY OF January, 2014.

W. M. MUSYOKA

JUDGE