



REPUBLIC OF KENYA

HIGH COURT OF KENYA AT NAIROBI

ADOPTION CAUSE NO. 291 OF 2013 (OS)

AND

IN THE MATTER OF THE CHILDREN'S ACT

(NO. 8 OF 2001)

AND

IN THE MATTER OF BABY B S [MINOR]

JUDGEMENT

1. The applicants, J P G van U and D M A-E A van U, are a married couple of Dutch origin. They have brought an Originating Summons dated 22nd November 2013 seeking permission to adopt Baby B S [*minor*].
2. Baby B S [*minor*], the subject of these adoption proceedings, was given up for adoption by her biological mother. The mother signed several consents to give up the child. The father of the child has also given a written consent to allow the adoption of the child. The reason given for the giving up of the child for adoption is that he is a taboo child, according to the traditions of the community from which his parents hail, having been born out of an incestuous relationship. The child was placed with the applicants on 20th August 2013.
3. There is sufficient documentation which supports this background prepared by and filed in court on 29th November 2013 by the Little Angels Network dated 7th November 2013. The Little Angels Network freed the child for adoption by their certificate dated 7th November 2013.
4. To facilitate the adoption the applicant has been assessed by the Director of Children Services and the guardian *ad litem*, B A O, both of whom have compiled and filed reports in court. Both reports are dated 20th January 2013. There is also an international adoption home study report by the Ministry of Justice, Child Welfare Council, Central and West Brabant Region, Breda Office, The Netherlands, dated 21st August 2012.
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 considers them to be his parents.
6. This proposed adoption has been approved by the State Secretary of Security and Justice in accordance with the Dutch law. There is a certificate of consent dated 24th August 2012. The proposed adoption has also received local approval through the National Adoption Committee of

Kenya, which has issued a certificate dated 18th September 2013.

7. The applicants have also identified persons who would step in and act as legal guardians in the event of misfortune, such as death or incapacity, befalling both of them prior to the child reaching the age of majority. The proposed legal guardians, S J P J and C W G J J-van U, have executed the requisite letter of consent, which is attached to this Summons, dated 25th January 2013.
8. In the opinion of this court it would be in the interests of the child that he is adopted by the applicants. The applicants 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 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.
9. I am satisfied that all the legal requirements for an international adoption have been met, and I hereby make the following orders:-
 - a. That the court allows the applicants, J P G van U and D M A-E A van U, to adopt the child, Baby B S [*minor*], who shall be hereafter known as B S van U [*minor*];
 - b. That as the child was born to known Kenyan parents, who have consented to this adoption, he is hereby declared Kenyan by birth, entitled to all the rights that accrue to Kenyan citizens under the Kenya Constitution 2010 and the Kenya Citizenship and Immigration Act, including the right to be issued with a Kenyan passport. I hereby therefore direct the Principal Immigration Officer to issue the said child with a Kenyan passport;
 - c. That S J P J and C W G J J-van U are hereby appointed the legal guardians of the child should misfortune befall the applicants;
 - d. That the Registrar-General is directed to enter this adoption order in the adoption register; and
 - e. That the guardian *ad litem* is hereby discharged.

DATED, SIGNED and DELIVERED at NAIROBI this 11th DAY OF April, 2014.

W MUSYOKA

JUDGE

In the presence of Mr. Oronga advocate for the applicants