



REPUBLIC OF KENYA

HIGH COURT OF KENYA AT NAIROBI

ADOPTION CAUSE NO. 94 OF 2014 (OS)

AND

IN THE MATTER OF THE CHILDREN'S ACT

(NO. 8 OF 2001)

AND

IN THE MATTER OF BABY A K

JUDGEMENT

1. The applicants, M He M B and C C P C J B, are a married couple of Dutch origin. They have brought an Originating Summons dated 25th March 2014 seeking permission to adopt Baby A K.
2. Baby A K, the subject of these adoption proceedings, was found abandoned at the out-patient department of the Jaramogi Oginga Odinga Teaching and Referral Hospital, Kisumu. The matter was reported at the Kisumu Police Station and the child was subsequently at the hospital before his discharge to the New Life Home Trust, Kisumu, for care and protection. The child was placed with the applicants on 24th December 2013.
3. There is sufficient documentation which supports this background prepared by and filed in court on 7th April 2014 by the Little Angels Network, dated 30th October 2013. The Little Angels Network freed the child for adoption by their certificate dated 30th October 2013.
4. To facilitate the adoption the applicant has been assessed by the Director of Children Services and the guardian *ad litem*, S O O, both of whom have compiled and filed reports in court. Their respective reports are dated 9th July 2014 and 5th June 2014, respectively. There is also a home-study report by the Child Welfare Council for the Central and Brabant Region in the Netherlands. The said report is dated 25th July 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 granting permission to adopt of foreign

nationality dated 30th July 2012. There is confirmation by Stichting Afrika, a Dutch adoption agency, dated 20th November 2012, that an adoption order made by a Kenyan court will be respected and recognised in the Netherlands and that the adopted child will gain resident status in the Netherlands. The proposed adoption received local approval through the National Adoption Committee of Kenya on 21st August 2013. There is a letter to that effect dated 26th August 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, R A P d M and R P C C M d M-B, have executed the requisite letter of consent, which are attached to this Summons, dated 19th March 2013.
8. In the opinion of this court it would be in the interests of the child that the child 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 she 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 a resident adoption have been met, and I hereby make the following orders:-
 - a. That the court allows the applicants, M H M B and C C P C J B, to adopt the child, Baby A K, who shall be hereafter known as A K B;
 - b. That as the child was found abandoned at Kisumu within Kenya, he is hereby presumed to be 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 R A P d M and R P C C M d M-B 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 31st DAY OF July, 2014.

W. MUSYOKA

JUDGE