



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA

AT NAIROBI

ADOPTION CAUSE NO: 213 OF 2011 (O.S)

IN THE MATTER OF THE CHILDREN'S ACT

(ACT NO. 8 OF 2001)

AND

IN THE MATTER OF BABY E.I.O

RULING

Before me is an application for an adoption order, dated 18th November 2011, brought inter alia, under **Sections 154, 157, 158, 159 and 160** of the **Children's Act, 2001 (Act No.8 of 2001)** and to which the Adoption Rules under the **Adoption Act (Cap. 143)** (repealed) apply by virtue of Section 24 of the Interpretation and General Provisions Act (Chapter 2 of the Laws of Kenya).

The applicants herein **H.S.K** (1st applicant) and **M.L.K** (the 2nd applicant), a married couple, of **FINLAND** have moved the court, praying that they be authorized to adopt and rename a baby girl presently identified and known as **BABY E.I.O** who, for the purposes of this ruling shall, where necessary, be referred to either as **Baby E**, the "**minor**" or the "**child**". Both applicants are Finnish Nationals aged 46 years and were in court for the hearing of this application.

The applicants were married on 23rd July 1988 and have no children of their own. They are gainfully employed in Finland where they currently reside and profess the Christian faith and are members of the Finnish Christian Church. Theirs is a monogamous marital union which they view as a partnership between equals, and which they are committed to preserve. They share common values and have respect for a harmonious family life and social wellbeing. The applicants have proposed a new name which they intend to give to the minor once an adoption order is obtained from this court, with authority to rename him as proposed. The applicants have filed the requisite statements and affidavits in support of the application, bearing all the supporting documents as required by the law. These include financial/income statements and a home study report which highly recommends the applicants as adoptive parents.

On 25th November 2011, on the applicants' application, **H.A.M** of P.O. Box 87363-80100 Nairobi was appointed the Guardian ad Litem for the purposes of this adoption. She has filed a report dated 6th February 2012, primarily stating that **Baby E** has bonded well with the adoptive family, is happily settled in their care and is well taken care of. She also vouches for the adoptive parents' suitability and capability to bring up the child well and to provide for the child in a manner that will guarantee not only the necessary day to day care and attention but also the best upbringing for the adopted minor, **Baby E**.

In the unlikely event that they become incapacitated or die, before the child attains the age of majority, the adopting parents have appointed **T.M1** and **T.M2** to be the legal guardians of the adopted child. The two have consented so to act. The Guardian ad Litem recommends that the applicants be granted the authority to adopt the infant and that the court grants, also, the incidental prayers sought in this application to complete the process.

The applicants have furnished the court with all the documentation necessary to support the exparte Originating Summons as required under the relevant adoption laws and rules. They have produced, inter alia the requisite approval of the Finland Government, through its Ministry of Justice, to adopt a Foreign Child, as well as the approval by the Kenyan Adoption Committee of the Directorate of Children's Services.

At the hearing of the application, it was submitted that **Baby E** was born on 26th August 2007 and abandoned at the Kakamega Provincial General Hospital by her mother. The matter was reported to the police at *Kakamega police station* vide *OB NO: 59/11/10/2007* on 11/10/2007. He stayed at the Hospital until 2nd November 2007 when he was admitted at the *Rehema PEFA Children's Home* in Bukura, pursuant to a committal order issued by the *Children's Court, Kakamega*. The court has been shown the committal order dated 2nd November 2007.

The Kakamega police having formally informed *PEFA Rehema Children's Home* that no claim had been made with them over the infant, **Baby E** was certified free for adoption under a Certificate of Declaration to that effect issued by the Little Angles Network, an accredited adoption society, on 1st September 2010. She was thereafter released and placed under the foster care of the applicants on 17th August 2011 under a *PEFA Rehema Children's Home Agreement* entered between them to the applicants' affidavit in support of the adoption application. The minor has been under their care and custody since.

The requisite studies and investigations have been carried out in regard to the applicants' suitability to adopt the infant and reports therefore duly filed. The report by the Director of Children's services, ordered by this court on 25th November 2011 and was filed on 8th February 2012, recommending the adoption and the renaming of **Baby E** by the applicants, who, according to the Director of Children's Services have proved that they are financially and socially capable of permanently fulfilling parental responsibilities over the infant.

In considering this application, I have perused the reports filed by the Guardian ad Litem and the Director of Children's Services, and thoroughly examined all the documentation filed in support thereof also the pre-consent investigation. The applicants' suitability has been carefully assessed and positive recommendations filed by credible persons. I am satisfied that the applicants do possess the requisite legal capacity to adopt the infant, and that they do understand the entire adoption process, and its future implications for themselves as a family and in particular, the need to provide the best for the adopted child all her life. I find them to be financially able, medically and morally fit to adopt **Baby E**. They have undertaken and bound themselves to bring him up as one of their own, in a healthy, happy and secure environment.

Considering the above, I have no hesitation in allowing the application, being satisfied that the proposed adoption is in the best interests of **Baby E**. Accordingly, the Originating Summons is hereby allowed and orders granted in terms of prayer 3, 4 and 5 thereof. I further order and direct that the Registrar General makes the necessary entries in the register in recognition of this adoption. The applicants shall ensure that the undertaking by the Interpedia an authorized Finnish Organization adoption agency abides with the terms of its undertaking of 25th October 2010, and in particular to ensure the filing of annual progress reports on the child with the Kenya Children's Home Adoption Society for the first 3 years of this adoption.

DATED, SIGNED and DELVIERED at NAIROBI this 26th DAY OF APRIL 2012.

M.G. MUGO

JUDGE

In the presence of :

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for the applicants.