



REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA
AT NAIROBI (MILIMANI LAW COURTS)
ADOPTION CAUSE 20 OF 2012

IN THE MATTER OF THE CHILDREN ACT (Act. No.8 of 2001)

AND

IN THE MATTER OF L.O (CHILD)

COURT AUTHORITY FOR ADOPTION (S.154 OF THE CHILDREN ACT)

JUDGEMENT

MR. O.W.B (the Male Applicant) aged 44 years and **MRS. C.S. B** (the female applicant) aged 42 years applied to this court by Originating Summons on 23rd January 2012 under the provisions of Section 154 (1) of the Children Act, Chapter 141 of the Laws of Kenya seeking authority to adopt a child known as **L.O** (the child) aged 5 years. Both Applicants have been married to each other since June 2006 and are **Dutch Nationals from the Netherlands**. The Applicants have also made an application in Adoption Cause No.21 of 2012 seeking to Adopt G.L, a child. G.L.A and L.O are siblings.

The Male Applicant is shown to be the registered owner and Managing Director of a Musical Instruments shop in Netherlands while the Female Applicant is shown to be an employee in the shop and to be earning 29,745 Euros per annum. They are Secular but believe in proper values taught in Christian faith.

Prior to making the application for adoption, the applicants and the child had been **evaluated and assessed** by **Little Angels Network**, a registered Adoption Society in Kenya. They had had the child and the child's sibling in their continuous care and control since 17th September 2011.

The child was born on 14th December 2006 to H.O.O, a single mother, who died on 29th December 2007 in Kisumu vide Death Certificate No.[...]. The child remained in Kisumu Kids Empowerment Organization and was later admitted to Rock Ministries International in Kisumu on 24th March 2010

following court orders made by the Children's Court at Winam in P & C Case No.94 of 2010 committing the child to the Home.

The Child was placed under the care and control of the Applicants on 17th September 2011. The Applicants have had care and control of the child and his said sibling since. The child's closest next of kin E.A of Kisumu gave her consent for the child to be adopted and on 10th March 2011 Little Angels Network secured written consent from her and from the Child's maternal grandfather, one J.O. The application and the reports filed show that the biological father of the child is unknown.

The Applicants home study reports show that they have no criminal records and are fit and proper persons to adopt a child. Their home Ministry of Justice has confirmed that the Applicants are capable of adopting one or two children of foreign nationality. The Applicants are shown to be in good health and to possess sufficient skills to raise a child.

The Kenya National Adoption Committee sitting on 23rd September 2009 approved the individual foreign application of the male and female applicants. The Applicants have been recommended for the adoption by their Adoption Agency Stichting Africa.

Since 12th September 2011, the Applicants have been resident in Kenya at Milimani, Kisumu. I have perused the evaluation and assessment reports filed by Little Angels Network, and by the Director of Children Services. They are positive. They show that the Applicants have the capacity to adopt and raise and educate the child and that they possess sufficient skills to assume the duties of parents. I have observed that the Applicants are alive to the implications of adoption including the fact that the child, once adopted shall have the right to inherit as if he were their biological child. The evidence presented to the court also shows that an adoption order made in Kenya shall be recognized and respected in Netherlands and that it shall guarantee the child resident status and citizenship. In the event that the Applicants are unable to continue caring for the child or become incapacitated or they die, the Applicants have appointed **M.A.W** and **C.H.B.D of Netherlands** to be the Legal Guardians to the child.

I am satisfied that the adoption shall be in the best interest of the child. Accordingly, I allow the application and grant the Applicants authority to adopt the child known as L.O. I now make the following orders:

1. The consents of the biological parents of the child known as **L.O** are hereby dispensed with.
2. The Applicants, namely, **O.W.B** and **C.S.B** are authorized to adopt the child currently identified and known as L.O.
3. The child shall henceforth be known as **L.O.A.W.B**.
4. The Legal Guardians of the child are **B.D** and **M.A.W of Netherlands**.
5. The date of birth of L.O is **December 2006** and his place of birth is Kisumu, Kenya.
6. The Registrar General shall enter this adoption in the Adopted Children Register.
7. The Applicants shall, for a period of three years beginning January 2013, furnish a report each year to this court through Email address www.judiciary.go.ke addressed to Deputy Registrar, Family Division of the High Court at Milimani Nairobi with a copy to the Director of the Department of Children's Services, Ministry of Gender, Children and Social Development, Jogoo House No."A", P. O. Box 46205, NAIROBI, Email:children@homeaffairs.go.ke.; Telefax Nairobi 248827.
8. For the avoidance of doubt, the rights and duties of the biological parents of the child are hereby extinguished and all the parental rights, duties, obligations and liabilities of the child, L.O.A.W.B, now vest in and shall be exercisable by and enforceable against the Applicants as the adopter parents as if

the child were born in wedlock to the adopter parents and the child, to all intents and purposes, now stands to the adopter parents as a child born in wedlock and both adopter parents shall henceforth be the lawful father and mother of the child.

Dated at Milimani Law Courts, Nairobi, this 24th day of May 2012.

G.B.M. KARIUKI, SC

JUDGE

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COUNSEL APPEARING

Ms V. Kimenyi advocate, of Rautta & Co. Advocates for the Applicants

Mr. Kugwa – Court Clerk