



IN THE MATTER OF BABY

I.....THE INFANT

AND

RK &

AM.....

.....APPLICANTS

RULING

By an Originating Summons (*the Application*) dated 20th June 2012, the Applicants, RK and AM sought the following orders:-

- (1) That this application be certified urgent and service be dispensed with at the first instance,
- (2) That BM of Post Office Box No. [...]NAKURU in the Republic of Kenya be appointed Guardian *ad Litem*,
- (3) That the Director- Children Department, Office of the Vice President, Ministry of Gender and Youth Affairs investigates the Applicants' fitness to adopt and file a report,
- (4) That the applicants be authorized to adopt BABY I to be known as [particulars withheld],
- (5) That the court be pleased to make any further orders it deems necessary.

Prayers 1-3 were granted on 22nd June 2012. This ruling therefore relates to the prayers 4 and 5 of the application.

In accordance with the said order, the Provincial Director Children Services, Rift Valley Province Nakuru conducted investigations as to the suitability of

the applicants to adopt baby *I* and has submitted its report dated 19th July 2012 and filed in this court on the same day.

The report has necessary information in compliance with the provisions of Sections 157 and 160 of the Children Act 2001 (NO. 8 of 2001), regarding the prospective adoptive parents, home environment and background information regarding the prospective adoptive child.

The prospective adoptive parents are in paid employment, the father who is currently pursuing a PHD is the [particulars withheld] and the mother who holds a degree is employed as a [particulars withheld]. The applicants also have various properties and are therefore financially stable and would manage to continue giving proper care to the minor comfortably without strain. They are also appropriate academic models for the minor. The report further notes that the prospective adoptive parents are a God fearing couple both active members at their Full Gospel Church and do not take alcohol or drugs. The couple's 2 children, [particulars withheld] , who is over 18 years old and [particulars withheld] who is 16 years of age, have consented to the adoption of the child herein and look forward to having their cousin become a member of their family.

Apart from giving the background information of the adoptive parents, the report gives a case history of the child, that the child is now 7 years and 11 months old, that she is in Class 3 at [particulars withheld] , she has two sisters, [particulars withheld] and [particulars withheld] who are in Standard 7 and 6 respectively at [particulars withheld] School. The child's mother [particulars withheld] passed away on 13th August, 2011. The child is currently living in [particulars withheld] in a 2 acre shamba with her grandmother, who is 78 years old and is a small scale farmer.

The 1st applicant is the subject's uncle and used to help the subject's mother raise her prior to her death. The child, never having known her biological father, has always viewed the 1st applicant as her father and has bonded well with the applicants' family. She is supportive of the idea of being adopted by the applicants.

In conclusion, the report recommended that it is in the best interest of the child to be adopted by the applicants and that she would be better placed living with the couple who are able to meet her needs unlike her grandmother who is aged and cannot be able to fend for the subject.

Having reviewed the report, I am satisfied that the requirements for adoption

under the Children Act, 2001 (*No. 8 of 2001*) and in particular SS. 157 (*who may be adopted*) 158, (*the 1st applicant is the uncle of the subject*) 159 (*no consent necessary as the subject was an orphan*) and 160 (*the guardian ad litem was appointed*) have been met by the applicants herein.

In exercise of the powers vested in this court by Section 154 (1) of the Children Act 2001 (*No. 8 of 2001*) the application herein is allowed in terms of prayers 4 and I direct that all the costs and expenses arising out of and connected with the orders herein made shall be borne by the applicant.

There shall be orders accordingly.

Dated, delivered and signed at Nakuru this 31st day of July, 2012

M.J ANYARA EMUKULE
JUDGE