



REPUBLIC OF KENYA

High Court at Mombasa

Adoption Cause 9 of 2011

IN THE MATTER OF: CHILDREN'S ACT NO. 8 OF 2001

AND

IN THE MATTER OF: AN APPLICATION BY S. M. M. FOR AN ORDER OF ADOPTION

AND

IN THE MATTER OF: ADOPTION OF M. K. (THE CHILD)

AND

S. M. M. 1ST APPLICANT

JUDGMENT

(1) The Applicant seeks to adopt the girl child the subject of these proceedings with whom she has lived for over 5 years since the child was 1 year three months. The guardian ad litem has filed a Report on the proposed adoption and Children Officer's Report has been filed pursuant to the court order of 2nd May 2012.

(2) The child was offered for adoption by its mother, who gave consent for that purpose on 5th August 2005 on the ground of inability to take care of the child. The adoption society, Little Angels Network has filed its Report dated 11th June 2008 declaring the child to be available for adoption and certifying that adoption would be in the best interest of the child. The Applicant's twin sister has accepted to take the responsibilities of the child's guardian in the event of the incapacity or demise of the Applicant. Against that background counsel for the Applicant has made submissions on the matter and judgment was reserved.

(3) It is in the best interests of the child to secure a home, parental care and a future. It is on this consideration that the mother put her up for adoption in view of her inability to support the child. The Applicant has accepted to take up the responsibility to provide a home, parental love and care as well as provide for the child's inheritance from her estate of her house at K[...] Estate, Mombasa; rental income and pension. The Applicant, a 57 years old widow, is well educated and works as a teacher placing her in a position to provide the educational needs for the child. The Applicant's Christian background also places her in moral advantage to provide social, religious guidance to the child in the child's best interests. In her absence, the Applicant's sister has accepted to step in to continue to provide as guardian of the child in accordance with the law. It is noteworthy also that the Applicant has lived with the child for close to six years now and it must be considered that the child considers her its mother, whose love

and support may explain the child's good performance in school.

(4) I have also noted the positive reports of the guardian ad litem and the Children's Department, Mombasa, and the Certificate of Good Conduct issued by the Criminal Investigation Department in respect of the Applicant.

(5) Accordingly, pursuant to section 163 of the Children Act, I grant the Applicant's Amended Originating Summons dated 29th October 2011 in terms of prayer 1, 2, 3, and 4 thereof.

Dated and delivered on this 9th day of November 2012.

EDWARD M. MURIITHI
JUDGE

In the presence of:

Mr. Njoroge for the Applicant

Linda Court Clerk