



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA

AT NAKURU

ADOPTION CAUSE NO. 11 OF 2010

IN THE MATTER OF F.K alias N.G.M (SUBJECT)

AND

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

C.E.A.M.....APPLICANT

RULING

By an Originating Summons (*the Application*) dated 22nd May 2010 the Applicants sought the following orders-

- (1) THAT G. A. O.M of Post Office Box No. 3754- 40100 KISUMU be appointed as the guardian ad litem of the subject herein during the hearing of these proceedings.
- (2) THAT Kenya Children's Home Adoption Society be authorized to investigate the applicant's fitness to adopt the subject and to file a report hereto.
- (3) THAT the consent of the Biological parents of baby F.K be and is hereby dispensed with since the child was abandoned soon after birth.
- (4) THAT the Applicant be authorized/allowed to adopt the subject herein above known as F.K and that her names be known hence forth as N. G.M.

(5) *THAT the Registrar of Births and Deaths be ordered to issue a certificate of birth in respect of the subject in the names N.G. M.*

(6) *THAT the court be pleased to make any further orders as it may deem necessary to the best interest of the child.*

Prayers (1) - (3) inclusive were granted by orders of court made on 6th July 2010. This Ruling therefore relates to the three prayers (4) - (6) of the application.

In accordance with the said order of court, the Kenya Children's Home Adoption Society were authorized to investigate the Applicants fitness to adopt the Subject and to file a report thereon.

However by the time the said orders were granted on 6th July 2010, the Kenya Children's Home Adoption Society had already filed its Report on 28th June, 2010. The reason for early filing of the Report is explained in the opening paragraphs of the Report and that the applicant had already approached the Society's Nakuru Branch in November 2008 with a request to be placed with a girl child aged between 6 and 9 months, with a view to eventually adopting such a child. The other reason is that the society had to carry out an in-depth investigation on the applicant's suitability in terms of Section 158 of the Children's Act to adopt a child, and Section 156 that the child has been declared free for adoption by a registered adoption society. The certificate of declaring a child free for adoption issued by the Adoption Society is dated 16th June 2010.

I have reviewed the Report aforesaid and note that the necessary conditions to final orders of adoption being made have been fulfilled both by the Applicant and the Adoption Society aforesaid.

I have also noted from the Report that the minor was committed to the care and protection of Thomas Barnados House - Nairobi (*the Adoption Society's Headquarters*) and has not been claimed since her abandonment. I have further noted the Adoption Society's case committee sitting on 16th February 2010 analyzed the case and was satisfied that the Applicant herein met all the requirements of adoption, hence the application herein.

I have further noted that the Applicant is an industrious person with a well paying job, has a home of her own, members of her extended family have given approval of her decision to adopt the minor and her own brother G.A. O. M is a guardian ad litem of the Subject.

I note in particular also that the Applicant has been with the child for the last 8 months, a period long enough to bond with the child. The Applicant has given the child motherly love and parental care.

In the circumstances therefore, the applicant herein has met the requirements of SS 157 (*children who may be adopted*) 158 (*who may qualify to adopt a child*) 159 (*when consent from a biological parent is not required*) 160 (*appointment of a guardian ad litem*).

In exercise therefore of the powers vested in this court by Section 163 of the Children Act 2001 (*No. 8 of*

2001) the application herein dated 22nd May 2010 and filed on 22nd June 2010 is allowed in terms of prayers (4) and (5) thereof. The Applicant shall bear all the costs in relation and incidental to these orders.

Dated, delivered and signed at Nakuru this 11th day of February 2011

M. J. ANYARA EMUKULE

JUDGE