



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAKURU

ADOPTION CAUSE NO. 10 OF 2011

IN THE MATTER OF THE CHILDREN'S ACT NO. 8 OF 2011

AND

IN THE MATTER OF M.P.N (A CHILD)

AND

IN THE MATTER OF AN APPLICATION BY D.N.S

RULING

By an Originating Summons dated and filed on 28th March 2011 (the Application), the Applicant, D.N.S sought the following orders -

(1) *THAT P.N.M of P. O. Box [particulars withheld], NJORO be appointed guardian ad litem in respect of the child in this case.*

(2) *THAT the Director, Children Service Department in the Office of the Vice-President and Ministry of Home Affairs through the Provincial Children's Officer Rift Valley investigates Applicant's fitness to adopt the child and file a report.*

(3) *THAT the applicant be authorized to adopt M.P. N.*

(4) *THAT the court be pleased to make any further orders as it deems fit and necessary.*

Prayers 1 and 2 were granted on 1st April 2011. This ruling therefore relates to prayers 3 and 4 of the Application.

Following the said Order of Court, the Director of Children's Service, Ministry of Gender, Children and Social Development conducted investigations as to the suitability of the Applicant to adopt child M.P.N and filed on 8th April 2011 a report dated 7th April 2011.

I have perused the Report, and I find that it complies with the requirements of Sections 157 and 160 of the Children Act, 2001 regarding the prospective adoptive parents, home environment and background information regarding the prospective adoptive child.

I have reviewed the Report aforesaid, which sets out the history of the subject child, first born to a single mother who is married to the adoptive father, and has lived with the mother and adoptive father for the last 8 years (*since 2003*) and the mother and adoptive father solemnized a civil marriage in the Office of the Registrar of Marriages on 8th September, 2008.

The Provincial Director of Children's Service, Rift Valley Province details in the report the accommodation and conditions at home of the applicant, then the adoptive father's, and the mother's financial ability with property both in London and Nairobi and although the director notes that the applicant was married but divorced before, the applicant appears responsible and reliable, and the adoptive parents own parents are alive and live in M D of Murang'a South District and Njoro Districts respectively.

The Report has also taken into account the child's own views, and that the child is happy and loves the applicant as the father, and her little brother D.N.J.

Considering that the adoptive parents are the biological mother and step-father who are legally married and the only parents the child has known, I accept the Provincial Director's recommendation that the parents are suitable to be granted adoption orders, and such adoption would be in the best interests of the child.

In my view therefore, the applicant has met the requirements for adoption stipulated by SS 157 (*children may be adopted*), 158 (*who may or qualify to adopt children*), 160 (*appointment of a guardian ad litem*). I have already noted the fact that the mother of the subject child is legally married to the adoptive father.

In exercise therefore of the powers vested in this court by the provisions of Section 163 of the Children Act 2001 (*No. 8 of 2001*), the application herein is allowed in terms of prayer 3 of the Originating Summons dated and filed on 28th March 2011.

The costs herein will be costs in the cause.

Dated, signed and delivered in Nakuru this 20th day of May 2011

M. J. ANYARA EMUKULE
JUDGE