



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA

AT NAKURU

ADOPTION CAUSE NO. 8 OF 2011

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

AND

IN THE MATTER OF S.R.W (A CHILD)

RULING

By an Originating Summons (*the Application*) dated 10th March 2011, the Applicant C.J.K sought the following orders -

- (1) *that C. W.K. R of P. O. Box [particulars withheld] Mombasa in the Republic of Kenya 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 the applicant's fitness to adopt the child and file a report.*
- (3) *that the applicant be allowed to adopt S.R.W.*
- (4) *that this honourable court be pleased to make any further orders as it may deem fit and necessary.*

Prayer 2 of the application was granted on 11th April 2011 and the court directed that the matter be mentioned on 11th April 2011 when in fact the matter was heard, and a Ruling was reserved for 13th June 2011 in respect of prayers 1, 3 and 4 of the application.

By an undated but signed Consent filed in court on 10th March 2011 C. W.K.R consented to be appointed guardian *ad litem* for the child (Subject). There is an Affidavit of Fitness of the Guardian *ad litem* sworn on 10th March 2011 by one RNK deponing that the said C.W.K.R is a fit and proper person to be appointed to act as guardian *ad litem* of S.R.W and recommended her appointment as such guardian ad litem.

I have also examined the statement in support of the application for adoption by C.J.K, the Applicant, dated 10th March 2011 and all the annexures attached thereto, and noted in particular that the child, the subject of the adoption application was found abandoned and taken to Provincial General Hospital on 3rd May 2009 for medication after which she was released to the Applicant by the Children's Office, Nakuru on 3rd June 2009. I note that the Applicant was allowed to be foster parent of the Subject by order of court on 12th February 2010, and was allowed to be foster parent of the Subject by order of court on 12th February 2010, and was allowed to travel to and from the U.S.A. and return to Kenya.

The Applicant also confirms that the application for adoption is not motivated by any payment or reward as consideration for adoption by any person or from any quarter.

Further, I have also reviewed the report entitled Home Visit Report ADOPTION CAUSE NO. 58 OF 2011 Ref CS/1/35/36/69 dated 23rd March 2011 under the hand of one E.N. Njuguna for Provincial Director Children's Services, Rift Valley, giving a comprehensive background of the **Prospective Adoptive Parent Information** including the Applicant's own biological children who are grown up and live in the U.S.A. **Home Environment**, the Subject's particulars, the fact that the Applicant travelled to and returned with the subject from the U.S.A. and the final recommendation that the prospective parent has provided a home and a family for the subject. The applicant has lived with the subject for the last 2 years, provided care and protection for the Subject..

Although the guardian *ad litem* is said to live and runs a business in Mombasa, the Affidavit of R.N.K regarding the guardian's fitness confirms that the guardian *ad litem* understands and views her role as an important task. I have noted also the subject was found abandoned, and no consent of the biological parent is therefore necessary.

Having therefore considered the Report by the Director aforesaid, I am of the view that the Applicant has met the requirements for adoption stipulated in Sections 157 (*Children who may be adopted*), 158 (*who may or qualify to adopt children*), 159, (*when consent of a biological parent may be dispensed with*), and 160 (*appointment of a guardian ad litem*).

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 prayers 2 and 3 thereof, and I direct that all the costs and expenses arising out and connected with the orders herein made shall be borne by the Applicant.

There shall be orders accordingly.

Dated, signed and delivered at Nakuru this 17th day of June 2011

M. J. ANYARA EMUKULE
JUDGE