



REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA
AT NAIROBI (NAIROBI LAW COURTS)

Adoption Cause 7 of 2006

IN THE MATTER OF ADOPTION OF BABY L

JUDGMENT

The Applicants had been married under Customary Law since 1985 and formalized their relation as a monogamous marriage under the Marriage Act (Cap 150) on 28th January, 2000.

An amended Originating Summons was filed as per directives of the court on 22nd April, 2009, which included prayer for dispensation of the final consent of the biological mother as per Section 159(a) (i) of the Children Act. Before the child was handed over to the Applicants on 22nd June, 2005. The Child Welfare Society of Kenya, an Adoption Society did receive consent by the biological mother. The child was conceived by her after an unfortunate and traumatic assault on her and that is the reason for her to offer the child for adoption on 4th November, 2004 who was born on 12th September, 2004.

Since then, the Child Welfare Society or other authorities as well as the applicants have not heard from the biological mother. The child has not seen or known any other parents or home.

Under the circumstances, I should not and do not have any reason not to exercise my discretion and do hereby dispense with the requirement of the consent to be filed by the biological parent.

Coming back to the merits of the cause, the 1st Applicant is working as a Supervisor of a Supermarket and the family has Dairy cattle and tea plantations. Their income from all these sources is comfortable. The Applicants have also produced medical certificates to show that they are physically fit. The court needed that confirmation due to the fact that the 1st Applicant is about to touch the maximum age prescribed by the Act.

The couple had adopted a child prior to this application and want to complete their family by seeking an order for second adoption. The elder daughter has taken the child as her own sibling, who is now around 12 years and schooling.

The Applicants were unable to have their own children and that is the reason they want to share their love and parental responsibilities with the child.

I have perused the two reports from the Director of Children Services and Child Welfare Society. They have unhesitatingly opined that the order of adoption would be in the best interest of the child.

The guardian ad litem is also of the same opinion.

After considering the facts of this cause, I cannot do better than follow the recommendations and to add that in my opinion an unwanted child has found the parents and a loving family.

I thus allow the Applicants to adopt the child to be known as **S. W. K.** [*particulars withheld pursuant to sections 76 (5) of the Children Act, 2001*] whose date of birth shall be recorded as 12th September, 2004.

These orders be entered into the Adoption Register.

I hereby discharge the guardian ad litem from the date hereof.

Dated, signed and delivered at Nairobi this 5th day of June, 2009.

K.H. RAWAL

JUDGE

5.6.09