



IN THE MATTER OF BABY BARRY IBRAHIM

AND

IN THE MATTER OF AN APPLICATION FOR ADOPTION

BY

MFVO AND

EWBB APPLICANTS

JUDGMENT

The Applicants are Dutch citizens and are born on 2nd November, 1968 and 24th February, 1969 respectively. They were married on 22nd August, 2004. Their birth certificates, marriage certificate as well as passports are annexed to their affidavits made in the O.S dated 17th April 2009.

The male Applicant is a businessman being a Director of company called [Particulars Withheld]. The female Applicant is in employment of [particulars withheld] as a Project Manager. According to the statements annexed in the affidavit, their combined annual income is €65.168. Rabo bank has confirmed that male Applicant is its customer since 1997 and as per available data he is of a good moral standing. The court asked for some further information on their financial standing which was provided vide further affidavit sworn on 20th July, 2009.

In the month of June, 2008, they were given a certificate of good conduct from Ministry of Justice. This certificates were issued as per Article 28 of the Dutch Judicial Records Act.

They have also obtained and produced Police Clearance Reports. After they were assessed by council for Child Welfare at Haarlem and report issued on 18th December, 2007, by the Ministry of Justice. They were granted permission to adopt a child of foreign nationality and the said permission is valid up to 19th January, 2011. The report from the council gives all the details as regards the suitability of the Applicants as regards their financial, social and emotional capability. As per the report, since they met in the year 2000, they wanted to be together and start a family. I shall quote following passages from page 6 of the said report:

“For prospective adoptive parents from the beginning of their relationship they have known that they wanted to start a family. When they decided to do this they failed to conceive and ended up seeing doctors. Examinations failed to provide a conclusive answer to the cause of the childlessness. They underwent fertility treatments but these, too, failed to produce results. They decided to forego further treatments and focus on inter-country adoption.

Being confronted with the involuntary childlessness was sad and painful for them. Prospective adoptive parents feel that they were able to openly express these feelings towards each other and that they were able to support each other in their grief. They were also able to talk about their childlessness with relatives and friends and these too, supported them. Prospective adoptive

parents feel that they have been able to come to terms with their childlessness.

In spite of their grief prospective adoptive parents can look back on some wonderful years together. They enjoyed their fun activities, their work, contacts with relatives and friends.

Prospective adoptive parents feel that through all these experiences they have grown even closer within their relationship. They have thoroughly come to know each other, they know where they stand in relation to each other and they have confidence in each other.”

Moreover, details of medical reports have been produced in further affidavit sworn on 20th July, 2009.

With the aforesaid pre-adoption and relevant documents on hand they came to Kenya. They are given Approval to adopt one Kenyan child by the National Adoption Committee vide its letter dated 27th November, 2008 after their financial capability was ascertained.

In the premises, I am satisfied that they have complied with the requirements of Section 162 of the Children Act. (Act 8 of 2001).

As against the above, the child on my hand was abandoned at Ray of Hope Clinic when he was a month old when he was critically ill. A police report dated 20th November, 2006 from Muthangari Police Station and O.B. Extract No.17/20/11/06 are on record of the court.

The child is assessed as having been born on 18th August, 2006. A statement recorded to the Police on 20th November, 2006 by a nurse of the aforesaid clinic is also attached to the affidavit of the Applicant. A further letter dated 25th May, 2007 from Muthangari Police Station confirms that no one has come forward to claim the child.

Thereafter, the said Home placed the child under foster care of the Applicants vide Foster Care Agreement dated 16th January, 2009. Since then the child is with the Applicants. The child is declared free for adoption by Little Angels Network vide its certificate No.[Particulars Withheld]dated 15th October, 2008.

An unmarried sister to the female Applicant namely DGM holder of Dutch passport No.[Particulars Withheld] has given written consent to be the child's legal guardian.

The Applicants do understand and accept the child's rights of inheritance.

By a letter of 30th June, 2009 the Embassy of the Kingdom of Netherlands has confirmed that on the order of adoption been granted, the child will be granted a passport and citizenship of the Netherlands and have all the rights of a Dutch citizen.

The consent by the Director of New Life Home Trust has given his consent on the application of adoption of the child and has stated that the Home shall be permanently deprived of rights of guardianship over the child as well as any right to see or get in touch with the child herein.

The Little Angels Network, the Adoption Society and the Director of Children Services have assessed the Applicants and made and filed their reports. I have perused them and their respective representatives were in attendance before the court at the time of hearing of this application and have reiterated their recommendations made in the report. Guardian ad litem who is a family counselor, has observed that the child has transformed after he was placed with the Applicants.

In short all concerned have with one voice recommended the order of adoption, which in their opinion shall be in the best interest of the child.

With the facts before me, I do tend to agree with their opinion and do find that the Applicants are

suitable persons to adopt a Kenyan child and that they have complied with the requirements of the Children Act.

I, in specific, do find that the order of adoption shall be in the best interest of the child who had been abandoned since he was one month in a critical health condition. The Children Institute which was granted his care and protection has given their unconditional consent. Thus I do dispense with the consent of his biological parents who are till to-date unknown and had not bothered to look for him.

The upshot of all the above is that I allow the Applicants MFVO and EWBB to adopt the child herein who shall be known as BBCFVO born on 18th August, 2006.

I do appoint DGM holder of Dutch passport No.[particulars withheld]

STICHTTING AFRICA as per their undertaking of March, 2008 prepare their quarterly Assessment Report for a period of three years.

The Children Department to issue a Certificate of conformity as required by the Embassy of the Kingdom of the Netherlands.

These orders be entered into the Adoption Register kept by the Registrar General .

I hereby discharge the Guardian ad litem.

Orders accordingly.

Dated, Signed and Delivered at Nairobi, this 31st day of July, 2009.

K.H. RAWAL

JUDGE

31.7.09