



## IN THE MATTER OF ADOPTION OF BABY RA

ADW AND

..... APPLICANTS

HWS

### JUDGMENT

The Originating summons dated 16<sup>th</sup> March, 2009 is presented by two Dutch nationals married on 7<sup>th</sup> April, 1995. It is a Civil marriage which is a monogamous marriage.

The male applicant was born on 10<sup>th</sup> February, 1968 and the female applicant was born on 8<sup>th</sup> May, 1973.

Before coming to Kenya to initiate adoption process, the applicants have undergone the pre-adoption process through relevant authorities in the Netherlands. Child Welfare Council at Zwolle, the Netherlands after assessing the Applicants made their recommendation vide its Report dated 14<sup>th</sup> March, 2008 which was carried out at the request from the Ministry of Justice made on 2<sup>nd</sup> November, 2007 to investigate the applicants as regards their capacity to take a foreign foster child. It is a detailed report attached to the originating summons and the court has perused the same. The report, duly certified and notarized, advises the Ministry of Justice to grant the applicants permission to take foreign foster-child into their family after they were found **“suitable emotionally and pedagogically to create a sound educational environment for a foreign adoptive child”**.

They have their respective family’s support. They have one biological son called R born in 1996 after a tough pregnancy forcing the female applicant to be on wheelchair for last four months of pregnancy. As pain persisted, she was diagnosed as suffering from Bechter’s disease. During treatment she was not allowed to conceive. After change of treatment, they tried but failed to conceive. Thereafter the desire to have an adopted second child was conceived and the female applicant is confident (which was a gradual process) that she would love the adoptive child differently but not less than her biological son.

Stiching Africa Foundation has also given an undertaking on March, 2008 to supervise and send quarterly progress reports to the local adoption society for a period of three years.

GGs, the sister to female applicant, has given her consent to be a legal guardian to the child. She is holder of passport issued by Netherlands on 28<sup>th</sup> September, 2007 bearing No. [Particulars withheld].

The male Applicant is working for last 12 years as a lecturer and consultant with [particulars withheld] of Applied Sciences earning annual income of €44,677, and female Applicant is part-time employee of [Particulars withheld] Women’s wear for seven years earning an annual income of €5,700. The Rabo bank has confirmed that the Applicants are its customers since 1994 – 95 and has confirmed

their financial position.

The Applicants have given their declaration on 16<sup>th</sup> March, 2009 and they are approved to adopt a Kenyan child by National Adoption committee vide their approval dated 5<sup>th</sup> November, 2008. The Applicants also are physically fit.

In short both Dutch and Kenyan authorities have approved the applicants as suitable persons to adopt a Kenyan child.

The child herein, when she was 8 months old, was found abandoned near Strathmore School, Nairobi. Two officers from Muthangari Police Station rescued her. A letter dated 24<sup>th</sup> March, 2008 Ref.No.C/GEN/71 Vol.II/146 from the said Police Station confirms the said fact. Chief of Kileleshwa Location vide his letter dated 16<sup>th</sup> July, 2008 Ref. No.KI/IADM/CH/01/06/01 confirmed the abandonment and indicated that she was taken to Seeds in His Garden Child Home Muthangari Police Station vide its letter dated 16<sup>th</sup> October, 2008 Ref.(1GEN/Vol.II/145/2008) confirmed that no one has come forward to claim the child.

The child was committed to the aforesaid Children Home by Nairobi Children Court on 19<sup>th</sup> September, 2008 vide P.& C.No.189/2008.

Thereafter a Foster Care Agreement prior to Adoption was entered into on 15<sup>th</sup> December, 2008 between the said Home and the Applicants. The child has been under the Applicants' care since then. She was freed for Adoption by a certificate dated 19<sup>th</sup> November, 2008 bearing No.[particular withheld] from Little Angels Network, a licenced Adoption Society under the Children Act (Act No.8 of 2001).

The Director of Children Department has recommended the adoption vide a report dated 4<sup>th</sup> May, 2009, and opined that considering all the facts and subsequent bonding of the child with the Applicants and family, the order shall be in best interest of the child.

The Little Angels Network, The Adoption Society is of the same view and recommends the adoption vide its report dated 15<sup>th</sup> January, 2009.

The guardian ad litem in her report filed on 15<sup>th</sup> May, 2009 has made similar recommendations.

The Dutch Embassy in Kenya also has confirmed that upon the issuance of an order of Adoption by this court, the child shall be granted a visa and Residence permit and would be conferred same rights as those of Dutch children.

I am satisfied that the Applicants have undergone due pre-adoption process in their home country and Kenyan Authorities also have approved them as a fit and capable persons to adopt a Kenya child. I am further satisfied that as of date of this ruling, no claim is made by any one in respect of the child and under the circumstances, I do agree that the order of Adoption shall be in the best interest of the child and her welfare will be protected and preserved thereby.

In view of the premises aforesaid, I grant the Applicants permission to adopt the child to be known as RDW born on 5<sup>th</sup> June, 2007.

I also appoint GGS holder of Dutch passport No.[particulars withheld] issued on 28<sup>th</sup> September, 2007 as legal guardian of the child.

I further direct Sticking Africa Foundation to sent quarterly progress reports to the Director of Children Services as well as Little Angels Network for a period of three years from the date hereof.

I discharge the guardian ad litem RA.

These orders be recorded in the Adoption Register held by Registrar General.

Orders accordingly.

Dated, Signed and Delivered at Nairobi, this 24<sup>th</sup> day of July, 2009.

**K.H. RAWAL**

**JUDGE**

**24.7.09**