



IN THE MATTER OF ADOPTION OF BABY RV alias EOJ

JK N

..... APPLICANTS

LWN

JUDGMENT

The Applicants in this matter are a bit advanced in their age and that is why the court asked them to appoint Legal Guardians for the child. WN and JK of Post Office Box [particulars withheld], Nakuru, have agreed to be the legal guardians by a consent affidavit sworn on 11th November, 2008

They are sister-in-law and brother of the Applicants.

At the time of filing the Originating summons dated 22nd March, 2006, the male applicant was 63 years of age and the female applicant was 54 years of age. They have disclosed their circumstances which led them to make the adoption application at later stage of their life, vide further statement dated 25th September, 2008 the year in which the male applicants turned 65. The reason was that after their marriage on 25th August, 1979 they tried to have their own biological children. However, when the female applicant developed medical complication, they adopted DN on 22nd April, 2003 and who is at present around 10 years of age. Thereafter, they wanted to complete their family by giving a companion and a brother to her. Hence the application.

The male applicant is professor by profession and works at University of [particulars withheld] and he can work till he chooses. His gross income is around KShs.166,752 per month. The female applicant is a Member[particulars with]eld. She also is a lecturer and Microcirculation Tester for the said company earning between Shs.60,000 to Shs.90,000 in bonus, per month.

They are of course cleared of any Police record and are in good health. The medical certificates were produced. They follow Christian religion.

Looking to the circumstances as against the background of the child herein (which I shall detail hereinafter), I am of a view that I can and do hereby exercise my discretion under Section 158(2) of the Children Act.

The child was born on 19th June, 2003 to one BAA and she offered the child for adoption to the DCO Vihiga on 24th June, 2003. Her reason was, that the child was a 'taboo' child conceived from relation with her cousin. Her mother also consented to such offer.

The child then was referred to New Life Home, Kisumu on the same day vide Letter of same date Ref.No.VHG/DCO/1BF/811/940/55.

Thereafter, Children Court Nairobi vide committal order of 21st September, 2003 in P&C No.266 of 2005 committed the child to New Life Home. The said Home then gave the child to the Applicants for foster care under agreement dated 24th October, 2003. Since then the child is under their care and control.

I have also considered reports from all relevant authority and guardian ad litem. I did not find any negative remarks and note that they all have given their recommendation unhesitantly and without any condition.

I have after, careful perusal of the record of the case and of after fulfillment of further requirements asked by me, formed an opinion that the grant of order as prayed shall be in the best interest of the child and I do authorize the applicants to adopt the child to be henceforth called as JNK and his birth date shall be recorded as 19th June, 2003.

I shall appoint WN and JKN of Post Office and Box [particulars withheld], Nakuru, the sister-in-law brother to the 1st Applicant to be the legal guardians of JN.

The above order be recorded in the Adoption Register held by the Registrar General .

I discharge now the Guardian ad litem.

Dated, Signed and Delivered at Nairobi this 24th day of July, 2009.

K.H. RAWAL

JUDGE

24.7.09