



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

Adoption Cause 128 of 2006

IN THE MATTER OF THE CHILDREN ACT, 2001

AND

IN THE MATTER OF BABY NT (A CHILD)

JUDGMENT

By originating summons dated 30.08.06 stated to be brought under sections 154; 156 (1); 157 (1); 158 (1) (a), (3) (a), (b), (c) and 4 (a); 159 (1) (a), (c), (4), (6) and (7); 160 (1), (2) and (4); 162 (a), (b) and (c); 163 (1); 164 (1); and 170 of the Children Act, No. 8 of 2001, TVWO applied, *inter alia*, for the following substantive order, namely:-

That the applicant be authorized to adopt NT, a child and that the said child be known as HAO.

That the applicant was represented in these adoption proceedings by learned counsel, Mrs V. Awori.

Salient facts of the application may be summarized as under. The applicant is a Kenyan lady of the African race. She lives and works for gain in Nairobi. She was born on 02.04.65 and is aged about 42 years and is single. The child to be adopted, a Kenyan girl also of the African race, was born on 30.08.04 and is aged about 3 years and 3 months. Section 158 (1) (a) of the Children Act is to the effect that for the applicant to qualify as an adoptive parent, she should have attained the age of 25 years and be at least 21 years older than the child but should not have attained the age of 65 years. These statutory age requirements have been met.

The child to be adopted was abandoned on 03.09.04 in Kisumu Nyalenda 'B' Milimani near the water office. She was rescued by one R M, wife of a police officer and handed over to the Medical Superintendent at New Nyanza General Hospital for medical care. Eventually the child was admitted to New Life Home, Kisumu and subsequently transferred to New Life Home, Nairobi on 03.03.05. She has not been claimed by anybody to date. The applicant took custody of the child from New Life Home, Nairobi on 18.03.05 and has fostered the child since. The applicant is a Christian and intends to bring up the child in the same faith.

The applicant has never married and she has no biological children. She is employed by K[particulars withheld] Bank in Nairobi as Head of Custody Services and currently earns a consolidated salary of Kshs.495,000/= per month. She owns a house in Valley Arcade in Nairobi for which she pays a mortgage of Kshs.96,000/= per month, has 300 shares in Ken Gen and also has medical cover worth Kshs.500,000/= per year for the child. Sometime back she had to undergo a surgical operation to have fibroids removed and she reckons that her chances of conceiving are low. Her motivation for the proposed adoption is personal desire to be a mother and to experience the bringing up of a child. She has also been moved by the plight of children in Kenya and since she has the necessary financial capability to provide a home for a needy child and as she has no plans for marriage at the moment, she has opted for the adoption route to parenthood.

Little Angels Network, a registered adoption society in Kenya has declared the child free for adoption.

The guardian *ad litem*, EVO has recommended the proposed adoption.

The Director, Children's Services has reported that the applicant has bonded well with the child and the said Director has recommended the proposed adoption.

The child was abandoned and has not been claimed. New Life Home has no objection to the proposed adoption.

I am satisfied on evidence tendered before court that the applicant meets the legal requirements and social parameters for an adoptive parent; that the applicant has requisite resources to cater for the upbringing and welfare of the child; that the applicant is a fit and proper person to adopt the child and that it is in the child's best interests to be adopted by the applicant. As the biological parents are unknown and have not claimed the child, their consent to the proposed adoption is dispensed with. Accordingly, I hereby make an order under section 154 (1) of the Children Act, 2001 authorising the applicant, TVWO to adopt the child, NT, who shall henceforth be known as HAO.

The Registrar-General is directed to make appropriate entries in the Adopted Children Register as required by law.

Orders accordingly.

Delivered at Nairobi this 16th day of November, 2007.

B.P. KUBO

JUDGE