

REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA
AT NAIROBI
ADOPTION CAUSE 158 OF 2004

IN THE MATTER OF ADOPTION OF INFANT ACT CAP 143

KW (THE CHILD)

JUDGMENT

The Applicants in this adoption cause have sought for an order authorizing them to adopt the infant, a female child born on 14th September 1996. The Applicants are married to each other and they have been married since 1994. The second applicant is related to the infant in that the biological mother of the infant is her cousin, besides the blood relationship, the 2nd Applicant was very close to the infant's biological mother.

The infant's mother died as a result of kidney failure and before her untimely death, she was scheduled to undergo a kidney transplant in India and the second applicant had offered to donate her own kidney. Since her death the applicants have shared the responsibility of bringing up the infant herein with her grandmother. The Infant was the only the child of the deceased and her father is unknown. The child's grandmother has duly given her consent for the adoption.

According to the grandmother, the Applicants are suitable and in her opinion, the adoption will afford the infant an opportunity to live and grow up in a family set up. The Applicants have so far been living with the infant, and they have taken up the responsibility with enthusiasm. Moreover the infant has bonded very well with them and their biological child and who is three years old. The infant relates well with her as a sister.

According to the report by the child Welfare Society, this adoption which is within a family has fully been discussed by all the family members who are supportive.

The society therefore offered a certificate freeing the child for adoption under Section 156(4) of the Children Act 2001. An evaluation report regarding the suitability of the Applicants as adoptive parents has been carried out by the Director of Children's Services, and the Guardian Act litem. All the reports recommend the Applicants as suitable parents.

The 1st Applicant is an Accountant in private practice while the 2nd Applicant works with Pyush Enterprises (Hardware) as a Senior Accounts Clerk. They command an average combined income which is adequate to cater for the needs of the two children.

The Applicants have applied and won the American Green Card which will grant them and the infant the most coveted residence in United States of America. If granted with the visas they will be assured of job placement for themselves and quality education for the children.

I have carefully evaluated all the material that was placed before me as well as the provisions of the Children Act 2001 especially part XII, and given due consideration to all the matters raised therein. This is an adoption within a family, I am satisfied that the order of adoption will promote the best interests of the infant herein. The Applicants fully understand the legal, social and financial implications of an order of an adoption and accordingly I grant the orders sought and allow the Applicants to adopt KW who shall henceforth be known as KWM.

It is so ordered.

Judgment read and signed on 28th January 2005.

MARTHA KOOME

JUDGE