



**REPUBLIC OF KENYA  
IN THE HIGH COURT OF KENYA  
AT NAIROBI  
H.C. ADOPTION CASE NO. 130 OF 2004**

**IN THE MATTER OF THE CHILDREN ACT (NO. 8 OF 2001)**

**AND**

**IN THE MATTER OF ESO- MINOR**

**J U D G M E N T**

On 16th June, 2004 MCL and EMLNO (*hereinafter called "the Applicants"*) filed an application in this court by way of Originating Summons seeking inter-alia for orders to adopt a Minor child known as ESO (*hereinafter called "the Minor"*).

On 16th July, 2004 SA was duly appointed as guardian ad litem of the said Minor. When the said application for adoption came for hearing on 4th March, 2005, the said guardian ad litem who is a Social Worker with Little Angels Network Society together with Felistus Mwikali a Social Worker with the Child Welfare Society of Kenya and J.N. Ndung'u (Mrs) an Assistant Director, Children's Services Department presented their respective reports in respect of these adoption proceedings on both the Applicants and the Minor.

The said Minor was born on 22nd November, 1994 to EMLNO a single mother, one of the Applicants herein. On 30th April, 2002 the Applicants formally solemnized their marriage and since then the Applicants and the Minor together with a daughter born to the said marriage have all been living together as a family. The said Minor is reported to have knitted well in the family of the Applicants and is currently attending German School and is already fluent in German language, the mother language of the 1st Applicant herein.

This is said to be an intended adoption within the family, and is meant to formalize a father-son relationship that already exists between the 1st Applicant and the Minor. The two are said to have indeed bonded well as would of father and son. The 2nd Applicant, who happens to be the biological mother, has duly consented to this intended adoption of the Minor in the new family. The biological father is not known and has therefore never assumed any parental responsibility of the Minor. The proposed adoption of the Minor will, according to the Applicants, confer unto the said Minor a greater sense of family belonging and ultimately shall be in his very best interest as he matures in the full knowledge that he is a legal entity of the family of the Applicants.

The Applicants are man and wife and are respectively of German and Kenyan nationalities. The 1st Applicant is however resident in Kenya on duty assignment with his employer in Germany. According to the reports filed, the said Applicants are fit and proper persons capable of adopting and providing due parental care and attention to the said Minor. There is already a biological child in the marriage of the Applicants.

Moreover, the co-Applicant herein is the biological mother of the Minor who, it is submitted, never got married to the biological father of the Minor. Upon validation of this adoption in German courts, the said Minor will acquire German nationality and be entitled to free education up to the University level.

In accordance with the said reports, the Applicants have duly complied with the applicable provisions of the Children Act (Act No. 8 of 2001). The said Minor also duly qualifies for adoption having been assessed and declared free for adoption by a registered adoption society as provided under the said Act. Further, the cross-cultural issues touching this intended adoption have been addressed by the Applicants

herein.

I have duly considered all the aforesaid reports together with the pleadings and submissions filed herein. I have heard the presentations made by the counsel for the Applicants. I am convinced that the Applicants fully comprehend all legal implications of this cross-cultural adoption. I am convinced also that the adoption sought by the Applicants shall be in the best interests of the said Minor because he stands to benefit tremendous in terms not only of his welfare but over-all well-being. In pursuance of the said application and the necessary statutory consents on record as provided under section 158 (4) (a) and in furtherance of the provisions of section 158 (1) (c) of the aforesaid Act, I accordingly order that the said Minor be and is hereby adopted by the said Applicants. I further order that the said Minor be renamed ESOL henceforth and direct the Registrar-General to make appropriate entries in the Adopted Children Register accordingly.

DATED, DELIVERED AND SIGNED at Nairobi this 8th day of April, 2005.

**P.J. KAMAU**

**JUDGE.**