

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI

H.C. ADOPTION CAUSE NO. 2 OF 2005

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

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

IN THE MATTER OF PK..... THE INFANT

AND

HSG & SKPS..... THE APPLICANTS

J U D G M E N T

On 14th January, 2005 HSG and SKPS (*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 PK (*hereinafter called "the Minor"*).

On 28th January, 2005 Dr. MSM was duly appointed as guardian ad-litem of the said Minor. When the said application for adoption came for hearing on 04th March, 2005 and 22nd April, 2005 the said guardian ad-litem in the said capacity together with Linnet Ouna a Social Worker with the Child Welfare Society of Kenya and J.N. Ndung'u (Mrs) Assistant Director, Children Services Department presented the requisite reports in respect of both the said Minor and the Applicants.

The said Minor was born on 6th December, 1999 to the second Applicant herein and her now deceased husband namely PSD who died in Nairobi, Kenya on 11th July, 1999. On 28th December, 2004 the Applicants contracted a statutory marriage under the provisions of the Marriage Act (Cap 150) Laws of Kenya. It is the desire and wish of the Applicants that the prevailing relationship between the Minor and the first Applicant be legalized by extending a father/daughter relationship respectively to them and in the process grant a complete family identity to the Applicants vis 'a vis the Minor. It is pleaded that in the circumstances, the said Applicants are best placed to adopt the said Minor particularly because the said biological mother of the Minor has duly consented and also because the adoptive father has bonded well with the Minor as a daughter. The said Minor has since August, 2004 been in the joint custody and control of both the Applicants when they commenced cohabitation with a view to solemnizing their marriage.

The Applicants are as aforesaid man and wife and are citizens of United Kingdom and Kenya respectively. According to the comprehensive reports filed and presented in this court by the guardian ad-litem, the Child Welfare Society of Kenya and the Children's Department, the said Applicants are fit and proper persons capable of adopting and providing due parental care and attention to the said Minor. The said Applicants are financially sound, have their own homes in Kenya and in the United Kingdom. The said Applicants are, in addition, both of Indian decent subscribing to the same religious faith and hence the question of cross-cultural issues will not arise for consideration in the event of making an adoption order.

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 the Child Welfare Society of Kenya, a registered adoption society, as provided under the said Act.

I have duly considered all the aforesaid reports together with the pleadings and submissions filed herein. I have heard the presentation made by the said guardian and the counsel for the Applicants. I am therefore satisfied that the adoption sought by the Applicants shall be in the best interests of the said Minor in the special circumstances of this adoption –in-the- family cause. I am also satisfied that mandatory consent to this application have been granted in pursuance of the provisions of section 158 (4) (a) of the said 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 PKG henceforth and direct the Registrar-General to make appropriate entries in the Adopted Children Register accordingly.

DATED, DELIVERED and SIGNED at Nairobi this 13th day of May, 2005.

P.J. KAMAU

JUDGE.