



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA

AT NAIROBI

ADOPTION CASE NO. 209 OF 2004 (O.S)

IN THE MATTER OF THE CHILDREN ACT AND

IN THE MATTER OF S (AN INFANT)

AND IN THE MATTER OF AN APPLICATION FOR ADOPTION BY MP & BS

JUDGMENT

The applicants in this Adoption Cause have sought for an order authorizing them to adopt the infant herein, a female child born on 7th October 2003.

The child was born at the Fatima Health Centre and the mother abandoned the child immediately after birth. The child remained at the Children's ward at the same Health Centre until 10th April 2004 when she was placed under the foster care of the applicants.

The applicants are married to each other in a monogamous union and they have been so married since 1981. The applicants are both Italians nationality of European race, and they reside in Switzerland. They are businessman and housewife respectively and the 1st applicant who is the sole bread winner of this family earns a reasonable income. The applicants have obtained authority from the Switzerland Government authorizing them to adopt a foreign child. The child will be recognized and the order of adoption will guarantee the child resident status. The applicants were also evaluated by the Juvenile Court of Milan and were found suitable.

The applicants desire to adopt a child is born out of their inability to get their own biological children and they were advised by priest incharge of a Cathedral in Switzerland to consider Kenya as a suitable adoption destination. They also desire to have a child whom they can regard as their own.

The assessment report on the suitability of the applicants as adoptive parents has been conducted by the Director of Children's Services and the report presented to this court recommends this adoption.

The child has similarly been declared free for adoption by the Child Welfare Society. The Guardian Ad Litem has also filed a favourable report. All the reports recommend this adoption. The reports filed on the

applicants home sturdy in their home country has also made reference to the cross cultural issues as this child is of different race. The applicants have addressed themselves to the issues and are familiar with other people in their neighbourhood who have adopted from different nationalities and they take refuge in globalization whereby the world is becoming a global village and such issues as colour are becoming irrelevant especially in a cosmopolitan country like Switzerland.

I have carefully considered the reports filed herein and all the matters provided for under the Children Act 2001 especially Section 162 on International Adoptions. I am satisfied that the applicants have fulfilled all the standards set out therein and the order of adoption shall promote the best interest of the child.

This child who was abandoned at birth will have an opportunity to grow up under the loving care and guidance of the applicants who have understood that love transcends colour and nationality. This is a better option for the infant than the Children's Home for the abandoned children.

Accordingly I allow the application dated 8th November 2004 and the applicants are authorized to adopt baby S, who shall henceforth be known as SM. It is so ordered.

Judgment read and signed on 3rd May, 2005.

MARTHA KOOME

JUDGE