

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI

ADOPTION CAUSE NO 80 OF 2004

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

AND

IN THE MATTER OF Ealias DM-MINOR

JUDGMENT

On 15th April 2004 HMK and CMK (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 E alias DM (hereinafter called “the Minor”).

On 16th April 2004 Alphaxard Chabari was duly appointed as guardian ad litem of the said Minor. When the said application for adoption came for hearing on 4th June and 18th June 2004 the said guardian ad litem together with J.N. Ndungu (Mrs) a Chief Children’s Officer with the Children’s Department and the said Alphaxard Chabari an Adoption Officer with the Child Welfare Society of Kenya presented their respective reports on both the Applicants and the Minor.

The said Minor comes to this court through the said guardian as an abandoned child. He is said to have been born on 8th August 1998 and found by a Good Samaritan abandoned near Kenya Breweries in Ruaraka Nairobi on the same day. After reporting to the police, at Kasarani Police Station, the said Minor was referred to Getrude’s Garden Children’s Hospital wherefrom he was then admitted to New Life Home Trust in Nairobi. He was subsequently placed with the Applicants for foster care on 7th November 1998 by the said Home. The said Minor has remained under the good care of the said Applicants since then.

The Applicants are man and wife and are both Kenyan citizens. 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. The said Applicants have not in their long standing marriage yet been blessed with a biological child, but have successfully previously adopted a daughter namely AK now aged 13 years. In accordance with the said reports, the Applicants have duly complied with the applicable provisions of the Children Act (Act No. 8 of 2001). They have further demonstrated expected positive attributes of any good parent by developing a well bonded relationship with the Minor especially by experience of their said previous adoption. The said Minor also duly qualifies for adoption having previously 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 representations made and the pleadings filed herein. I am convinced that the adoption sought by the Applicants shall be in the best interests of the said Minor. I am satisfied that the long delay in processing and formalizing this adoption has not been deliberate but only out of inadvertent omission. In pursuance of the said application and the evidence adduced herein I further dispense with the production of necessary statutory consent as provided under section 159(1) (a) (i) (c) of the aforesaid Act.

I accordingly order that the said Minor be renamed DMK henceforth and direct the Registrar-General to make appropriate entries in the Adopted Children Register accordingly.

DATED DELIVERED AND SIGNED at Nairobi this 25th day of June 2004.

P. J. KAMAU

AG. JUDGE