

REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA AT NAIROBI

ADOPTION CAUSE NO 30 OF 2004

IN THE MATTER OF THE CHILDREN ACT

AND

IN THE MATTER OF BABY PAA

ALIAS P - INFANT

JUDGEMENT

On 30th January 2004 R O – N and GR(hereinafter called “the Applicants”) filed an application in this court by way of Originating Summons seeking inter-alia for orders to adopt an infant child known as PAA alias P(hereinafter called “the Infant”).

On 20th February 2004 Stephen Mukenya was duly appointed as guardian ad litem of the said Infant. When the said application for adoption came for hearing on 23rd July and 17th September 2004 the said guardian ad litem together with Linnet Ouna a Programme Officer with Child Welfare Society of Kenya and J.N. Ndungu(Mrs) a Chief Children’s Officer with the Children’s Department duly presented their respective reports on both the Applicants and the Infant.

The said Infant comes to this court having been born on 4th March 2002 out of a prohibited and incestuous relationship within the Luhya Community. At birth, the adult unmarried mother of the said Infant namely CMM, together with her family voluntarily surrendered and offered the said Infant for adoption. The said mother duly signed consent letters towards the said surrender and offer on 6th March 2002 and formally consented to the adoption of the said Infant through the office of the District Children’s Officer Vihiga District.

The said consent was nonetheless void as it was granted before the expiry of the statutory six weeks period but since to date no one has claimed the said Infant, the said Infant may accordingly be presumed and treated as having been abandoned as provided under section 159(1) (a) (i) of the Children Act.

The said Infant was immediately after birth admitted at the New Life Home Trust Kisumu, a child rescue centre, on the authority of the said District Children’s Officer and subsequently on 5th September 2003 transferred to the New Life Home Nairobi for medical treatment and commencement of fostering and adoption proceedings.

The said Infant was on 21st April 2003 fostered by the Applicants and has since remained in their good care and attention.

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 Infant. The said Applicants and who solemnized their marriage on 8th July 1995 are by reason of unexplained medical complications unable to have their own biological children, and hence the desire to adopt. They have, according to the said filed reports bonded well with the Infant. 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 Infant 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. The said registered adoption society has duly affirmed the authenticity of the said but void consent to adoption that were granted as aforesaid.

I have duly considered all the aforesaid reports together with the pleadings and submission filed herein. I am convinced that the adoption sought by the Applicants shall be in the best interests of the said Infant. In pursuance of the said application and including the provisions of section 159(1)(a)(i) of the aforesaid Act, I accordingly order that the said Infant be and is hereby adopted by the said Applicants. I further order that the said Infant be renamed PMRR 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

October, 2004.

P.J. KAMAU

AG JUDGE