

REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA AT NAIROBI
ADOPTION CASE NO 54 OF 2004

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

AND

IN THE MATTER OF I. N. – MINOR

JUDGMENT

On 25th February 2004 Tarcisius Kampanyanga Nitta and Catherine Mumbua Nitta (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 I. N. (hereinafter called “the Minor”).

On 19th March 2004 Joyce Kimemia was duly appointed as guardian ad litem of the said Minor. When the said application for adoption came for hearing on 30th April and 23rd July 2004, the said guardian ad litem who is a Social Worker with Little Angels Network Society together with Phyllis Muraguri a Programme Officer with the Child Welfare Society of Kenya presented their respective reports in respect of these adoption proceedings.

The said minor was born on 10th August 1987 to Catherine Mumbua Nitta Ne’e Ndunda a single mother, one of the Applicants herein. On 24th February 2001, the said biological mother of the Minor officially got married to her co-Applicant, but had been living together even before then as a family with the said Minor. The Applicants therefore desire to formally legally adopt the said Minor for purposes of making her a legal entity of their family.

The said Minor, who is now aged 17 years has, as provided under the Children Act, formally consented to be adopted by the Applicants. During the hearing of these proceedings, the said Minor confirmed that she did upon her own free will consent to be adopted by the Applicants and that she fully understood the meaning of the said intended adoption. The said Minor further confirmed to court that the said adoption would indeed be in her best interest having lived with the Applicants as ‘father’ and mother continuously and happily for the last 8 years.

The Applicants are man and wife and are respectively of Malawi and Kenyan nationalities. Tarcisius Kampanyanga Nitta is however resident in Kenya. 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. 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. 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. I have, by reason of special circumstances of this application, waived the production of the report from the Director of Children’s Services, an essential requirement in all adoption proceedings.

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 adoption sought by the Applicants shall be in the best interests of the said Minor. In pursuance of the said application and the necessary statutory consents on record as provided under section 158(a)(f) 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 I. N. N. henceforth and direct the Registrar-General to make appropriate entries in the Adopted Children Register accordingly.

DATED AND DELIVERED and SIGNED at Nairobi this 17th day of September, 2004

P. J. KAMAU

AG. JUDGE