

**REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA AT NAIROBI
H.C. ADOPTION CAUSE NO. 98 OF 2001**

IN THE MATTER OF BABY J M R A

BY C A

R U L I N G

C A the applicant is an Education Advisor attached to GOAL, an Irish relief and development organization. She is an Irish national and has taken care & charge of the Infant J since 21st May, 2001. The infant was HIV positive when she was given over to C but since then has been declared HIV Negative. J's mother died due to HIV AIDS and that is how she came into the fold of New Life Home which caters for orphaned children. I do not know how that home attracts the European nationals wishing to adopt African orphans but that is besides the point so far as this case is concerned.

The applicant has been given glowing references from all the concerned including the Children Officer from the Director, Children's Service in the office of the Vice President. The applicant is aware that she has to take the infant eventually to her homeland i.e. Republic of Ireland even though she intends to live in this country as long as possible. However, she has support of her family, friends and also the Immigration Department of her country who have stated that on adoption the infant would be given the citizenship of the Republic of Ireland. It is shown that the Republic of Ireland is fast developing into multiracial country and is emerging fast from its cocoon of Hamogenous Society. The applicant has a stable and adequate financial resources which would cater for the needs of the infant if the adoption order is granted despite the provisions of section 4 (3) (C) of the Adoption Act.

Obviously the applicant and infant are from different races and that fact shall be visible throughout their lives. The applicant has given it a very serious thought and the infant, as observed by me as well as by all concerned, has also developed a bond with her. They have become a part of their respective lives.

If this court does not grant this order what is the future scenario for the infant? She will go back to the life of an orphan and be detached from the life of warmth, love, comfort, & security which this applicant, to the satisfaction of all concerned, is capable and willing to afford to the infant.

In my view I have special circumstances which justify as an exceptional measure to make the order of adoption. I shall not reiterate what is before this court. Suffice it shall be to state that there is no negative aspect against the applicant to make this court weigh the facts of this application. I can unhesitantly state that the welfare of the infant is in Granting of this order.

I therefore order that the applicant C A be authorized to adopt J M R A who shall henceforth be known as C A A. I further direct that C A change her will to include the name of C A A as a beneficiary of her estate as a daughter.

Dated and delivered at Nairobi this 19th Day of February, 2002.

K. H. RAWAL

J U D G E