

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI

FAMILY DIVISION

ADOPTION CAUSE NO. 137 OF 2018 (OS)

IN THE MATTER OF THE CHILDREN'S ACT NO. 8 OF 2001

IN THE MATTER OF ADOPTION OF HWM (MINOR)

BY

CMR (APPLICANT)

RULING

1. The Applicant **CMR** moved this court by way of an Originating Summons dated 21st August 2018 seeking for adoption of the minor named herein. In an application dated the same day he has sought for the appointment of guardian *ad litem*.
2. Before allowing any adoption that court would require the guardian *ad litem* as appointed by court and the department children services to investigate and file reports with the court.
3. In my considered opinion the circumstances of this case require a different approach for the following reasons;
4. Though several consents have been filed including that of the child and his parents the court notes the following;
 - i. The applicant is a foreigner and based in Mali.
 - ii. There is a moratorium in place that has for now placed foreign adoptions in abeyance.
 - iii. The parents of the child remain married. And are yet to divorce.
 - iv. The mother of the child and the applicant are said to be in a relation which has not been clearly spelt out.
5. In my view things as they stand now do not augur well from the adoption of the minor as proposed. I am not persuaded either that adoption of the minor at this stage is to his best interest. The application appears premature. To allow for the parents' divorce and marriage between the minor's mother and the applicant I will hold this matter in abeyance.
6. The applicant be at liberty to move the court at an appropriate time when the circumstances change.

Dated and Delivered in Nairobi this 7th day of February 2019

ALI-ARONI

JUDGE