



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA

AT NAKURU

ADOPTION CAUSE NO. 41 OF 2017

IN THE MATTER OF APPLICATION FOR ADOPTION OF M N AND I M.... MINORS

AND

O O O.....1ST APPLICANT

J K O.....2ND APPLICANT

JUDGMENT

By way of Originating Summons dated the 12th October, 2017, the Applicants **O O O** and **J K O** through their advocates, Makori & Rioba Company advocates seek the following orders:

1. Spent

2. Spent

3. Spent

4. THAT the Applicants, being the siblings to the minors herein, be authorized to adopt the minors herein.

5. THAT the Honourable Court be pleased to presume the minors herein as Kenyan Citizens having been born of Kenyan Parents.

6. THAT the Registrar-General do make the appropriate entries in the adopted children's register in respect of the minors herein.

7. THAT the Court does issue such other orders as may be necessary in the best interest of the child and costs be in the cause.

The Applicants are husband and wife. They are in full time employment in the United States of America with a regular income. The 1st Applicant works as a nurse while the 2nd Applicant works as a nurse assistant. Their marriage was solemnized at [particulars withheld] Church in Kenyena District on the 25th September, 2009 where a marriage certificate number [particulars withheld] was issued. Together they have been blessed with four issues of the marriage namely B N O, P D O, D O O and M L O. The Applicants children are happy and willing to accept the adopted children as their sister and brother. The Applicants desire is to undertake a kinship adoption for baby **M N** and baby **I M** as they are total orphans and they need to give them a family and better opportunities in life together with their four children.

The 1st Applicant is a biological brother to the minors **M N** and **I M**. Baby **M N** and baby **I M** are sister and brother respectively. Their biological parents **E O O** and **J K** both passed on in 20th July 2013 and 22nd July 2012 respectively. The death certificates Serial numbers [particulars withheld] in respect of their deceased biological parents are annexed. **I M** was born on 10th November, 2002 and **M N** was born on 4th April 2004. They are the 7th and 8th born respectively in their family of eight siblings. After the demise of their parents, their elder brother **O O O** (The 1st Applicant) assumed responsibility of caring for them. Both minors are in school and they live together with their other siblings who also depend on the 1st Applicant. When schools close they live on their own under the supervision of their brother M O. The Applicants make frequent visits from USA to Kenya to visit the children. Medical examinations conducted at Kisii Teaching and Referral Hospital on M N and I M on 24th April, 2017 confirm that the minors are in good health. They were also found to be HIV negative.

K O, a brother to the minors, was taken through the Explanatory Memorandum for Biological Parents/Guardians Offering Child For Adoption by the Kenya Children's Homes Adoption Society which he understood and signed certificates of acknowledgment in respect of both minors dated 15th May 2017. He willingly and fully offered the minors for adoption by the 1st Applicant **O O O** who has been responsible for their upkeep since their parents died. **M N** and **I M** offered themselves for adoption vide their letters both dated 16th May,

2017. On 21st June 2017, the Kenya Children's Home Adoption Society in its sitting freed the minors **M N** and **I M** for adoption and issued freeing certificates serial numbers [particulars withheld] pursuant to Section 156(1) of the Children's Act, 2001 dated the same day.

On 30th January, 2018 the Court directed that the Director of Children's Services in the Ministry of Gender, Children and Social Development to conduct investigations as to the suitability of the Applicants to adopt the minors and submit a report of their findings. **N T O ID NO.** [particulars withheld], **P.O.BOX 77 NYAMACHE – KISII** was appointed as *Guardian ad litem* of the minors. The consent of the biological parents to the minors was dispensed with as the said parents are both deceased.

The Applicants availed themselves for interrogation at their home in Gucha Sub County by the children office personnel. Mr. Donald Nyamweya Kebabe, the Sub-County Children's Officer, Sotik, filed a favourable report dated 1st February, 2018 on the Applicants' fitness to adopt the minors **M N** and **I M**.

Upon reading the above report and considering that this is a Kinship adoption and that the Applicants have fulfilled all the legal requirements as per the Children Act, this Court is satisfied that the Applicants are suitable persons to adopt **M N** and **I M**. It is therefore ordered:

- 1. THAT** the Applicants, being the siblings to the minors herein, be and are hereby authorized to adopt the minors **M N** and **I M**.
- 2. THAT** minors herein be and are hereby presumed as Kenyan Citizens having been born of Kenyan Parents.
- 3. THAT** the Registrar-General be and is hereby authorized to make the appropriate entries in the adopted children's register in respect of the minors herein **M N** and **I M**.
- 4. THAT** costs be in the cause.

Dated and Signed at Nakuru this 16th day of May, 2018.

A. K. NDUNG'U

JUDGE