



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA

AT NAKURU

ADOPTION CAUSE NUMBER 10 OF 2009

IN THE MATTER OF H W alias R Z O.....MINOR

AND

R K O.....1ST APPLICANT

C W O.....2ND APPLICANT

RULING

1. The application before court is dated 17/9/2018. Orders sought are;

(a) Spent

(b) THAT the minor herein be presumed as a Kenyan citizen.

(c) THAT costs of this application be in the cause.

2. The application is based on grounds;

i) THAT the prayer for the presumption as a Kenyan citizen was not included in the Adoption Application dated 9th November, 2009.

ii) THAT the Adoption was concluded and a birth certificate together with the Adoption certificate issued to the Applicants.

iii) THAT the minor herein needs to travel out of the country for a school trip and the same has been frustrated.

iv) THAT the said minor needs a passport and the same has been denied.

v) THAT the Immigration Department has declined to clear the said minor for travelling.

3. It is further supported by the sworn affidavit of R K O and C W O.

4. The gist of the application is that when adoption orders were sought in respect of H W alias R Z O, a prayer that the said subject be presumed a Kenyan citizen was not included in the adoption application dated 9/11/2009.

5. It is urged that the adoption was concluded and a birth certificate together with an adoption certificate issued. Both are annexed.

6. It is indicated that the minor needs to travel out of the country for a school trip and for that purpose needs a passport. The department of immigration has declined to clear the said minor for travelling.

7. I have considered the application, the supporting affidavit and grounds in support.

8. I have confirmed from the record that the minor R Z O was adopted by R K O and C W O vide orders of court of 7th May 2010.

9. Subsequently, a birth certificate and a certificate of entry in the adopted children register was issued.

10. A perusal of the originating summons presented to court and dated 9th November, 2009 shows that the prayer that the child be declared a Kenyan citizen was not included.

11. The record of court shows that the minor herein was abandoned on 24/9/2007 and taken to Pangani Police Station.

12. Having been found in Kenya, the child should be presumed to be a Kenyan citizen.

13. Consequently, the prayers sought are meritable to give full effect to the adoption order and to give the minor a nationality which gives the minor, not only an identity, but also facilitates her movement around the world as circumstances may require.

14. I allow the application dated 17/9/2018 and make the following orders;

1. R Z O be presumed a Kenyan citizen.

2. The costs of this application be in the cause.

Dated and Delivered at Nakuru this 2nd day of October, 2018.

A. K. NDUNG'U

JUDGE