



REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA
AT NYAMIRA
ADOPTION CAUSE NO. 1 OF 2016

J .M. N]

F M].....APPLICANTS

AND

E Z.....CHILD

J U D G M E N T

1. This application originating summons dated 30th day of March, 2016 brought by two applicants, **J .M. N** and **Mrs. F M** as husband and wife to adopt an infant **E Z**.

The application is brought under **Children’s Act, 2001, under S.82, 83 and 88** thereof.

The applicants seek for orders:

1. That in the best interest of the child named herein and due to the urgency of this application the summons be heard ex-parte at the 1st instance.
2. That this court be pleased to grant an order allowing the applicants herein to adopt the minor **E Z**.
3. That this court be pleased to grant an order vesting legal custody of the child herein **E Z** in the applicants herein.
4. That any further or other orders as may be in the best interest of the child be made by this court.

GROUNDS relied upon are:

- a. **The applicants have prior to this application had had actual custody of this child for a period of more than (7) seven years.**
- b. **The child has lived to know only the applicants as the parents.**
- c. **The applicants have sought and obtained the consent of LEWA CHILDREN’S HOME to have custody of the child.**

d. **It is the ascertained wish of the parties that custody be granted to the applicants**

e. **The applicants have the capacity, means, will desire, religious inclination and moral standing to maintain, give care and attention to the child.**

f. **It is in the best interest of the child that the orders of adoption be granted.**

2. The application is supported by the affidavit sworn on 30th March by the 1st applicant.

3. The statement in support of the application for adoption order dated 30th March is also attached.

PW1- J M N in his testimony stated that the child has been in their custody since 2010 in their Nyamira Township home.

The said child is currently attending [particulars withheld] Preparatory School.

He produced five (5) documents in support thereof: **Exhibit – 1**, a child placement letter from the Child Welfare Society of Kenya dated 12/01/2011. **Exhibit -2** – a letter from Lewa Children’s Home dated 19/05/2011. **Exhibit – 3-** a letter from Welfare Society of Kenya dated 19/05/2011. **Exhibit – 4** – a child health Card dated 29/12/2008. **Exhibit – 5** – a letter from [particulars withheld] Preparatory School – dated 29/03/2016.

4. **PW2 – F M** – a wife to PW1 concurred with the testimony of PW1 who works as a [particulars withheld] in Kapenguria.

5. The court has been shown a bundle of documents and reports. The Child Welfare Society of Kenya authorizing the child to be free for adoption.

6. **Issue for determination**

Whether this court should allow this application for adoption?

7. The suitability of the application was confirmed during the hearing of this adoption cause. P.W.1 and P.W.2 have confirmed that the minor has lived happily with the applicants and they have established a warm and a parental relationship to the minor child and equally a filial relationship of this child to the applicants in loco parentis.

There was evidence that the only eldest daughter at age 24 years consents to this adoption by her parents to adopt E Z, a male child.

8. The child was found abandoned, thus the need of **S. 162(1)** does not apply, in respect of obtaining consent.

9. The applicants are desirous of renaming the child, to be known and referred to as **E O M**.

10. Learned counsel Mr. Moracha, representing Lewa Children’s Home lent his support to the application for adoption.

11. Accordingly, this court being satisfied that all legal requirements for adoption are met, orders are hereby granted in favour of the applicants as prayed for in their application dated 30th March 2016, being originating summons thereof.

12. I do direct the Registrar –general to make appropriate entries in adopted Children’ Register in respect of the infant herein.

13. Upon this order the infant be known as and referred to and called **E O M.**

14. Costs shall be in the cause.

Dated and delivered at Nyamira this 16th day of January 2017.

C. B. NAGILLAH

JUDGE

In the Presence of:-

Mogere for the applicants

Bwonwong'a hold brief for Moracha for Respondents

Migiro - Court clerk