



REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA AT KERICHO
ADOPTION CAUSE NO.9 OF 2016
IN THE MATTER OF THE CHILDREN ACT (ACT NO.8 OF 2001)
AND
IN THE MATTER OF A K, B K AND M C (CHILDREN)
J K K.....APPLICANT

JUDGMENT

1. The applicant, J K K K, filed the application dated 22nd September 2016 seeking to adopt the minors A K, B K and M C.
2. The applicant was born in 1974 and is now 43 years old, according to documents filed with his application, and is nurse by profession. He is the maternal uncle of the minors the subject of this adoption cause. The applicant is employed by the Baptist Medical Centre in the United States.
3. A K and M C are brother and sister, children of the applicant's sister, M C. They were born on 1st January 2000 and 19th September 2002 respectively. Their mother has given her consent to the adoption, and they were declared free for adoption under section 156 (1) of the Children Act on the 19th day of August 2016 by the Kenyans to Kenyans Peace Initiative (KKPI) Adoption Society.
4. The third child in respect of whom this application relates is B K. He is also a nephew of the applicant, his mother being H C, a sister of the applicant. B K was born on 15th May 2001. His mother has given her consent to his being adopted, and he was declared free for adoption on 19th August 2016. The children have also given their written consent to the adoption.
5. The applicant deposes that he has always taken care of the children the subject of this application as their mothers are single parents with little means of livelihood. The biological fathers of the children, according to the applicant, have neither seen nor maintained the children, nor have they exercised any parental responsibility over the children.
6. B K R was appointed Guardian *ad litem* in respect of the children on 25th November 2016. He has filed a report dated 23rd March 2017. In his report, he notes that he has assessed the applicant who has been bringing up the children since they were young. He notes that the applicant is suitable to adopt the children, and it is in their best interest that he adopts them.
7. The Sub-County Children's Officer, Kericho, has also filed a report with respect to the suitability of the applicant to adopt the children. He observes that the applicant has the financial means to take care of the

children, and is also emotionally stable. From home visits, he confirmed that the applicant has a good home and all the relatives of the children and the applicant are in favour of the adoption.

8. He also notes that the respective mothers of the children understand the implications of the orders sought in this matter.

9. I have considered the application before me, the affidavits and documents in support and the reports of the Guardian *ad litem* and the Sub-County Children's Officer.

10. While the applicant is a sole male applicant and under the Children Act would not be eligible to adopt a female child, I note that in this case, in accordance with section 158 (2) (a) of the Children Act, special circumstances do exist. First, this is an intra family adoption: the applicant is seeking to adopt his nephews and nieces. Secondly, he is adopting the female child alongside her brother and first cousin. I am therefore satisfied that the orders sought are merited.

11. Accordingly, I grant orders as prayed in the application dated 22nd September 2016. The applicant, J K K, is hereby authorized to adopt A K, B K and M C. The children, whose mothers are known and are sisters of the applicant, are Kenyan citizens.

12. The Registrar General is directed to make the appropriate entries in the Adopted Children Register.

13. K K P, the brother of the applicant, is appointed the legal guardian of the children should any misfortune befall the applicant.

14. The Guardian *ad litem* is hereby discharged.

Dated, Delivered and Signed at Kericho this 5th day of May 2017

MUMBI NGUGI

JUDGE