



REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA AT NAIROBI
ADOPTION CAUSE NO. 156 OF 2014 (OS)
IN THE MATTER OF THE CHILDREN'S ACT NO. 8 OF 2001
IN THE MATTER OF ADOPTION OF S W (THE CHILD)

BY

E J G G AND C N W (APPLICANTS)

JUDGMENT

1. The Applicants E J G G and C N W are in a monogamous marriage. The marriage which was solemnized in Kiambu on 30th December, 2011 was contracted under the marriage Act, Cap 150 Laws of Kenya. They have four other children namely:

- i. S W aged 15 years and J G aged 14 years – biological daughter and son respectively to the male Applicant.
- ii. T K aged 19 years and J T N – biological daughter and son respectively to the female Applicant.
- iii. J W G aged 2 years – biological child to both Applicants.

2. They wish to adopt the child known as S W, a minor of female sex, through the Originating Summons dated 4th June, 2014. They indicate that E J G G is an Accountant with [particulars withheld] Kenya while C N W is a Civil Servant working with [particulars withheld]. They reside in Ridgeways and are both Christians.

3. The child in this matter is called S W and was born on 23rd January, 2000 to the First Applicant and the late C N. Her mother passed away in South Africa, while undergoing treatment on 18th February 2011. The second Applicant got remarried to the first Applicant in 2011. The subject child has been continuously in their joint care and protection since 2011 when the Applicants moved in together as husband and wife.

4. The child was declared free for adoption on 5th February, 2014 by the Little Angels Network Adoption Society vide certificate No. [particulars withheld]. The First Applicant signed an Explanatory Memorandum for Biological Parent/Guardian and consent to give up a child for adoption respectively on 5th November, 2013. The child who is now aged fifteen years also signed a consent dated 1st November 2013 in which she indicated that she had no objection to the proposed adoption. Prior to the hearing of the adoption application, Little Angels Network Adoption Society, an adoption society, prepared and filed a report in court.

5. The Adoption Society, guardian ad litem and the Director of Children’s Services have all made home visits and established that the Applicants are financially and emotionally capable of providing for the up keep and education of the child.

6. The Director of Children’s Services also filed a report dated 2nd November, 2015 recommending the adoption for reasons that the child stands to gain the opportunities provided by becoming the son of the Applicants and growing up in a complete family setting. The guardian ad litem, Ms. T K M also filed a report that was favourable and recommended the adoption of the child by the Applicants.

7. The child was in court during the hearing and appeared to have bonded well with the Applicants. She was jovial and related well with the Applicants and the other siblings who were also present in court. Both Applicants’ families support the adoption.

8. More importantly, the orders sought by the Applicants relate to a child. In law, in any matter concerning a child, the best interests of a child are paramount. **Article 53(2)** of the **Constitution** provides the guiding principle on this question as follows:

“A child’s best interests are of paramount importance in every matter concerning the child.”

The other pertinent law is the **Children Act No. 8 of 2001** and in particular **Section 4(3)** thereof.

9. From the foregoing, this court has formed the opinion that it would be in the best interest of the child to be adopted by the Applicants. The Applicants’ reasons for the proposed adoption was that they would like to have legal documents that would allow the children to enjoy full benefits from their employers, to have legal inheritance rights over their properties. They would also like to integrate the family. These are all reasons that this court finds to be noble.

10. In the premise the prayers sought in the Originating Summons dated 4th June, 2014 are allowed with the following orders:

- i. The Applicants, E J G G and C N W are hereby allowed to jointly adopt **S W (child)** who shall henceforth be known as **S W G**.
- ii. Her date of is 23rd January, 2000 and she is recognised as a citizen of Kenya.
- iii. P G M and P M N (Friends to the Applicants) respectively, are hereby appointed as the legal guardians of the child, in the event that the Applicants die or are incapacitated by ill-health.
- iv. The Registrar General is hereby directed to enter this order in the Adoption Register.
- v. The Director of Immigration is hereby authorised to issue the child with a Kenyan passport.
- vi. The guardian ad litem is hereby discharged.

It is so ordered.

SIGNED DATED and **DELIVERED** in open court this **14th day of July 2016**.

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L. A. ACHODE

JUDGE