



REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA AT KAKAMEGA

ADOPTION CAUSE NO. 2 OF 2016

**IN THE MATTER OF AN ADOPTION FOR BABY B M ALSO KNOWN AS E H M M BY M M
M AND A M M AND- M**

RULING

Introduction

1. On the 28.09.2016, this court gave the greenlight to the applicants to adopt baby B M The court also appointed J O, Baby B.M's Guardian Ad Litem.
2. After delivery of the Judgment, the first applicant made an oral application seeking to have the Registrar –General cause an entry to be made for the child's name to be entered in the Adopted Children Register and for change of the child's name from B M. to E H M M As the court had also made an order that the child B M would not leave the jurisdiction of the court without an order of the court, the applicants also made an oral application for an order granting them leave to take the child B M to the USA in December, 2016. Upon hearing the oral application, the applicants were advised to file a formal application hence the filing of the Notice of Motion dated 29.09.2016. The same was filed on 29.09.2016.

The Application

3. The Notice of Motion dated 29.09.2016 seeks orders in terms of prayers 1,2,3 and 4. The application is supported by the affidavit sworn by the first applicant, M M M on 29.09.2016, both on his own behalf and on behalf of the second applicant. He prays that the name of the child be changed from B M to E H M M and that an entry be made in the Adopted Children's Register to that effect. He also prays for an order allowing him and the second applicant to travel to the USA between December, 2016 and January, 2017 with the child B M. The applicants have undertaken to give the child the best care they can afford and to ensure that they return to Kenya in early January, 2017 so that the child can continue with school.

Submissions

4. The applicants appeared before me on 03.10.2016 and made submissions during which the repeated the averments on the face of the application and in the affidavit sworn by the first applicant on 29.09.2016. The application is brought under Sections 161,163(I) and (2), 170(1-5) and 171(1), (2) and 3 of the Children's Act, Cap 141 of the Laws of Kenya.

Analysis and Determination.

5. The relevant provisions of the law in this matter is Section 170 of the Children's Act which requires the

Court to make an order directing the Registrar- General to make an entry in the Adopted Children's Register in the prescribed form. As stated earlier the reason why the applicants are making this prayer for entry into the Adopted Children's Register now is because they omitted the prayer from their previous application seeking an adoption order.

Conclusion

6. Upon a careful consideration of all the relevant provisions of the law, the submissions and the application as filed, I am satisfied that the applicants have made out a case for the orders sought. Accordingly, the application is allowed in the following terms.

1. The Registrar General be and is hereby directed to cause an entry in the Adopted Children Register of the adoption order herein.
2. The name of the baby hitherto known as B M shall forthwith be registered as E H M M in the Adopted Children Register and in the Register of Births.
3. The Registrar General be and is hereby directed to cause the entry in the Registrar of Births to be marked with the word "Adopted".
4. The applicants herein together with the child E H M M be and are hereby allowed to travel to Texas USA for Christmas holidays for a period of two months ending in early January, 2017.
5. Costs of this application shall be in the cause.

Orders accordingly.

Ruling delivered, dated and signed in open court at Kakamega this 5th day of October, 2016

RUTH N. SITATI

JUDGE

In the presence of:-

.....**Both present in persons.....for Applicants**

.....**Mr. Okoiti.....Court Assistant**