



REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA
AT KERICHO
ADOPTION CAUSE NO.4 OF 2013
IN THE MATTER OF THE CHILDREN ACT 2001 (ACT NO.8 OF 2001)
AND
IN THE MATTER OF P K *alias* P K (CHILD)
M K A S.....1ST APPLICANT
G C M.....2ND APPLICANT

JUDGMENT

1. By their application dated 19th April 2013, the applicants, M K A S and G C M seek to adopt the child known as P K *alias* P K, a child then aged 6 years.
2. The applicants are husband and wife aged 77 and 55 years of age respectively. They were married in 1980 under Kipsigis customary law. They are both farmers, working on a five hectare piece of land which the first applicant, M K A S, shares with his siblings. They earn their living from sale of milk, bananas and coffee from the farm. They do not have any biological children.
3. The child in respect of whom these proceedings relate is P W K. According to the report from the Kenya Children's Homes Adoption Society dated 17th April 2012, the child was born on 19th August 2007 to one L W at Mai Mahiu sub-location. The child was living at Mai Mahiu with his mother and an unknown step-father, both of whom subjected him to physical abuse. As a result, he was admitted at the Kenyatta National Hospital on 22nd October 2009. He was discharged from the hospital after about 10 months and placed under the custody of Thomas Barnado's House on 19th August 2010.
4. The report further indicates that on 26th August 2010, the child was re-intergrated with his maternal grandmother, one J N W, who is the child's mother's aunt. This was after his mother, L W, despite being informed that he had been admitted to Thomas Barnado House, failed to visit him at the home.
5. On 11th March 2011, the child's grandmother, J N W, approached the Kenya Children's Home Adoption Society and indicated her intention to offer the child for adoption as she was not in a position to care for him due to deteriorating health. She signed an initial consent form offering the child for adoption on 11th March 2011. The child was re-admitted to the Thomas Barnado House on 11th March 2011. On 28th July 2011, J N W swore an affidavit signifying her consent to the child being placed for adoption. On 21st October 2011, the child was committed to the care of the home by the Nairobi Children's Court in

Protection and Care Case Number 331 of 2011.

6. The child was freed for adoption by the Kenya Children's Homes Adoption Society on 24th April 2012 in accordance with section 156 (1) of the Children Act 2001. He was placed in the custody of the applicants on 21st June 2012.

7. On 13th November 2013, the court appointed A K R Guardian *ad Litem* in respect of the child. He has filed a report dated 6th October 2015 with respect to the fitness of the applicants to adopt the child.

8. I have considered the application before me, and the documents and affidavits filed in support of the application. I have also considered the reports by the Guardian *ad Litem* and the Sub-county Children Officer, Kericho, the latter dated 8th January 2014. I note that all the reports and affidavits filed in the matter before me are favourable to the applicants and recommend that they be authorized to adopt the child.

9. I also observed the applicants and the child when they appeared before me on the 5th September 2016. While the first applicant is rather advanced in age, the 2nd applicant is reasonably young. I also note that the child has been in their care and custody since June 2012, and it is evident from the material before me that they have bonded well, and the applicants, together, have the means to take care of the child.

10. It is therefore my finding that the applicants are suited and should be authorised to adopt the child. More importantly, noting that the child was abused and abandoned by its biological parent at an early age, it is in his best interests that he be adopted and given a home by the applicants.

11. I therefore grant the orders sought in the application dated 19th August 2013. The applicants are hereby authorized to adopt the child currently identified and known as P K. The child shall be renamed P K. He shall be presumed to be a citizen of Kenya. His date of birth shall be 19th August 2007 and his place of birth Mai Mahiu, Kenya.

12. I further appoint J K K and T K K, the brother and sister in law of the 1st applicant, as the legal guardians of the child should any misfortune befall the applicants.

13. The Registrar General shall make the appropriate entries in the Adopted Children's Register, and the Registrar of Births and Deaths shall issue a birth certificate in respect of the child.

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

15. It is so ordered.

Dated, Delivered and Signed at Kericho this 11th day of November 2016.

MUMBI NGUGI

JUDGE