



REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA AT NAIROBI
ADOPTION CAUSE NO. 131 OF 2015 (OS)
IN THE MATTER OF THE CHILDREN'S ACT NO. 8 OF 2001
AND
IN THE MATTER OF ADOPTION OF BABY M B
BY
E G S AND A-K ST (APPLICANTS)

JUDGMENT

1. The Applicants, **E G S** and **A-K S**, are of Danish origin and in a monogamous marriage which was solemnized at the Essinge Parish Stockholm on 4th April 1998. They have three biological children. They have brought an Originating Summons dated 21st May 2015, seeking permission to adopt **Baby M B**, an infant of male sex. **E G S** is a senior consultant, with Connecta AB, Stockholm while **A-K S** is a teacher with Hermods AB, Stockholm. They reside in Akvarellgrand 9, 17547 Jarfalla and are both Christians.
2. The child who is the subject of this adoption proceedings was found abandoned at infancy at Kisii Estate (Makongeni) in Thika on 23rd April 2012. He was rescued by a good Samaritan one F W. The matter was reported at Makongeni Police Station and an entry made vide OB No. 22/30/04/2012. On 2nd May 2012 the child was admitted to Karibuni Children Centre for care and protection. On 10th October, 2012 the child was officially committed to the same Children's Home by the Senior Principal Magistrate Children's Court Thika, vide P&C Case No. 186/2012. A letter dated 21st November 2012 from Makongeni Police Station confirms that no one has gone to claim or inquire after the child.
3. The child was declared free for adoption on 29th October, 2014 by the Little Angels Network Adoption Society vide certificate No. [particulars withheld]. He was released into the custody of the Applicants for mandatory foster care pending adoption on 20th February 2015. Since then he has been in the continuous custody and care of the Applicants. Prior to the hearing of the adoption application, Little Angels Network, an adoption Society prepared and filed a report in court.
4. The Adoption Society and guardian ad litem 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. The guardian ad litem, M/s. C W K filed a report that was favourable and recommended the adoption of the child by the Applicants.

5. The Director of Children's Services who cited the moratorium on foreign adoption by the Cabinet, did not file a report. The court notes however, that the Kenya National Adoption Committee, where the Director of Children Services serves as Secretary, on 19th August, 2014 met and approved the applicants' application to adopt a child in Kenya. The decision of the committee was communicated to the Kenya Children's home by the Director of Children Services *vide* a letter dated 10th September, 2014. The decision conveyed was that the committee had found the applicants to be suitable prospective adoptive parents. A certificate of approval was duly issued to them, dated 16th September 2014, signed by, among others, the Director of Children Services.
6. The Swedish Ministry of Social Affairs, Children and Integration, the Division of Family Affairs, National Social Appeals Board, Central Authority in Sweden, in accordance with the Hague Convention on the Protection of Children and Cooperation in Respect of Inter-country Adoption of August 18th 2008 all confirmed that the Applicants had been approved by the Swedish authorities. According to a Communique from the said office dated 28th November, 2013 and annexed to the Originating Summons, a Kenyan adoption would be recognised immediately in Sweden and the Swedish Embassy in Nairobi will have authority to issue the child with a Swedish passport upon presentation of the adoption order. The child will at the same time obtain Swedish citizenship.
7. The proposed adoption also received local approval by the Little Angels Network Adoption Society and by the Adoption Committee meeting held on 19th August 2014 *vide* approval certificate No.[particulars withheld] dated 19th August, 2014. When the Director Children Services declined to provide a report to the court, an application dated 9th July 2015 was brought before the court. Upon consideration and on the basis of the best interest of the child, this court ordered in a ruling dated 25th September 2015 that the report of the Director of Children Services could be dispensed with in the circumstances of this cause.
8. The child was in court during the hearing and appeared to have bonded well with the Applicants. He was jovial and clearly considered the Applicants as her parents.
9. From the foregoing I am satisfied that all the legal requirements for an international adoption have been met, and consequently I will make the following orders:
 - a. That the Applicants, **E G S** and **A-K S**, are hereby allowed to adopt Baby **M B**, who shall be hereinafter known as **M B J S**.
 - b. His date of birth shall be presumed to be 2nd December, 2011.
 - c. He is presumed to have been born in Kenya and the place of birth shall be Thika.
 - d. The child is presumed to be Kenyan by birth.
 - e. G R D C and Iliana Caven (Applicants' best friends) respectively are hereby appointed as the legal guardians of the child, should the Applicants die or become permanently incapacitated before the child attains the age of majority.
 - f. The Registrar-General is directed to enter this adoption order in the Adoption Register;
 - g. The Director of Immigration is hereby authorised to issue the child with a Kenyan passport.

The guardian ad litem is hereby discharged.

It is so ordered.

DATED, SIGNED and DELIVERED at NAIROBI this 9th DAY OF October 2015.

L. A. Achode

JUDGE