



**REPUBLIC OF KENYA**

**IN THE HIGH COURT OF KENYA AT KAKAMEGA**

**ADOPTION CAUSE NUMBER 5 OF 2014**

**IN THE MATTER OF THE ESTATE OF:**

**BABY L.T. ALIAS A.D.....THE CHILD**

**AND**

**M W .....APPLICANT**

**R U L I N G**

1. The Notice of Motion dated 3/10/2014 is brought under Section 154 of the Children's Act No.8 of 2001 seeking adoption of baby L.T alias A.D and for further orders that the Registrar General be directed by this Honourable Court to make an entry in the register to record this adoption and for such further orders as this Court may deem necessary or expedient in the interest of justice. The application is premised on the ground that the applicant has been subjected to the requisite investigation and found fit to adopt the child L.T alias A.D
2. The applicant, M W swore a supporting affidavit on 31/10/2014 in which she depones that the matter of the child L.T who was found abandoned at somebody's compound by an unknown person was handled by the Ministry of Gender Children and Social Development in the year 2012 and that since then, no one has laid claim to the said child. That by a letter dated 14/06/2013, the child L.T was admitted to New Life Home Trust in Kisumu for her safety and custody until she was placed in the applicant's custody vide the agreement dated 08/08/2013. The applicant depones that she is physically, emotionally and financially stable to care for the child L.T. hence the instant application. She also depones that she has not made any previous application for an adoption order.
3. Annexed to the applicant's affidavit are copies of correspondence to confirm the facts alluded to in the said affidavit. In the care Agreement dated 08/08/2013, the applicant undertook to do a number of things, among them to look after, feed, clothe and bring up the child L.T as carefully and as kindly as she would her own child. A pre-placement report on the applicant was prepared by Little Angels Network on 24/04/2013. New Life Home Trust operating under the auspices of Barnabas Ministries Africa estimated that the child L.T was born on 22/11/2012. By their report dated 03/07/2013, Little Angels Network declared the child L.T free for adoption pursuant to Section 156 (1) of the Children's Act which provides as follows:-

**“156 (1) No arrangement shall be commenced for the adoption of a child unless the child is at least six weeks old and has been declared free for adoption by a registered adoption society in accordance with this rules prescribed in that behalf.”**

4. When this matter came up for hearing on 30/07/2015, Mr. Mango, Counsel for the applicant

- submitted that the applicant has complied with all the requirements of Sections 154 – 159 of the Childrens Act, No.8 of 2001 and urged the Court to grant the orders sought.
5. The relevant Sections of the Childrens Act cited by the applicant generally make provision for adoption proceedings. The pre requisites for adoption are set out in Sections 156 – 159 and one of those pre requisites is that no arrangement for adoption shall be commenced unless the child is at least six weeks old and has been declared free for adoption by a registered adoption society in accordance with the prescribed rules. The declaration in respect of any person desirous of adopting a child can only be made if it is clear that an adoption order can be lawfully made in favour of such person.
  6. Section 157(1) provides that any child who is resident within Kenya may be adopted, whether or not the child is a Kenyan citizen, or was or was not born in Kenya with the proviso that no application for an adoption order shall be made unless the child intended to be adopted has been in the continuous care and control of the applicant within the Republic for a period of three consecutive months preceding the filing of the application and both the child and the applicant and applicants as the case may be evaluated and assessed by a registered adoption society in Kenya. Section 158 (1) sets out the qualification of applicants seeking an adoption Order and subsection (2) thereof prohibits the adoption of a child by a sole applicant of the opposite sex or if the applicant is of unsound mind, is a convict for any offence under the third schedule of the Act; or the applicant is a homosexual, is a sole foreign male applicant or if joint applicants are not married to each other Section 159 provides for dispensation of consents required under Section 158 (4).
  7. In light of the above stated provisions and after a careful analysis of the evidence that has been placed before me by the applicant I am satisfied that the applicant has satisfied all the pre requisites for granting an adoption order and has made out a case for the orders sought. Accordingly, I allow the Notice of Motion dated 31/10/2014 and make the following orders:-

1. THAT the applicant herein, M W be and is hereby authorized by this Honourable Court to adopt baby L.T alias A.D.
2. THAT the Registrar General be and is hereby directed by this Honourable Court to make an entry in the register to record this adoption.
3. THAT the costs of this application shall be in the cause.

Orders accordingly.

**Ruling delivered, dated and signed in Judges Chambers at Kakamega this 3<sup>rd</sup> day of November 2015.**

**RUTH N. SITATI**

**J U D G E**

In the presence of:

Mr. Nyikuli for Mr. Mango (present) for Applicant

Mr. Lagat -Court Assistance