



REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA
AT MILIMANI
ADOPTION CAUSE NO. 42 OF 2014 (OS)
AND
IN THE MATTER OF THE CHILDREN'S ACT
(NO. 8 OF 2001)
AND
IN THE MATTER OF S M alias S M K
JUDGEMENT

1. R W G is a single applicant, who is a citizen of the United States of America of Kenyan descent. She seeks to adopt a Kenyan male child, known for the purposes of these proceedings as S M alias S M K. Her Originating Summons is dated 31st December 2013.

2. S M alias S M K is a nephew of the applicant. He was born to the brother of the applicant and a woman called E J on 18th November 2004 (birth certificate number *[particulars withheld]* relates to him). His father is physically disabled as both his legs were amputated due to drug abuse and he uses a wheelchair, and is wholly dependent on the applicant. The child's mother died on 5th July 2009. He has been under the care of his paternal grandparents since then. The said grandparents are now elderly and wholly dependent on their daughter, the applicant herein. The child is agreeable to being adopted by his aunt, the applicant herein. His father has consented to the proposed adoption.

3. He was freed for adoption by the Little Angels Network adoption society by their declaration dated 23rd May 2012.

4. To facilitate this adoption, the applicant has been assessed by the Little Angels Network, the Director of Children Services and the guardian *ad litem*, H N K-M. These three have compiled and filed their reports in court, dated 23rd May 2012, 15th May 2014 and 2nd May 2014, respectively.

5. All these reports are favourable and recommend the proposed adoption. The applicant has filed documents that demonstrate that she has the financial and emotional capability and capacity to take care of the child. The child appears to have bonded well with the applicant and he considers her to be his parent. I note that the applicant has two adult biological children of her own who are supportive of the proposed adoption. I also note that this is a kinship adoption.

6. The applicant is a citizen of the United States of America, although she is Kenyan-born. She proposes

to take the child with her to the United States of America. She has filed a letter from the Embassy of the United States of America in Kenya, dated 5th March 2014, which confirms that she has been determined by the competent US authorities to be eligible and suited to adopt, and that once a decree of this court is issued authorising the adoption the subject child shall be authorised to enter and reside in the United States of America. There is also attached an approval notice dated 24th October 2013 from the Department of Homeland Security, Citizenship and Immigration Services, of the United States of America, allowing the applicant to proceed with the adoption process.

7. In the opinion of this court it would be in the best interests of the child that she is adopted by the applicant. The applicant will be able to provide a home and a family for the child to grow up in and thereafter be a useful member of the family. Consequently, the applicant shall assume all parental rights and duties of the biological parents in respect of the adopted child; she shall treat the adopted child as if she was born to her. The applicant has been made aware that once the adoption order is made it shall be final and binding during the lifetime of the child and that the child shall have the right to inherit her property. The applicant cannot give up the child owing to any subsequent unforeseen behaviour or other changes in the child.

8. I am satisfied that all the legal requirements for a local adoption have been met, and I therefore make the following orders:-

- a. That the court allows the applicant's application to adopt the child S M alias S M K;
- b. The said child shall hereafter be known as S M K;
- c. That N N K is hereby appointed the legal guardian of the child in the event of the untoward happening to the applicant;
- d. That the Registrar-General is directed to enter this adoption order in the adoption register;
- e. That the guardian *ad litem* is hereby accordingly discharged; and
- f. That the child is a Kenyan citizen by birth entitled to all the rights accruing to Kenyan citizens by virtue of the Constitution of Kenya and the Kenya Citizenship and Immigration Act, consequently the Principal Immigration Officer is hereby directed to issue him with a Kenyan passport.

DATED, SIGNED and DELIVERED at NAIROBI this 6th DAY OF June 2014.

W. MUSYOKA

JUDGE

In the presence of Mr. Kamenchu advocate for the applicants.