



REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA
AT NAIROBI (NAIROBI LAW COURTS)

Adoption Cause 33 of 2009

IN THE MATTER OF ADOPTION OF BABY PMK

JUDGEMENT

The Applicants are Dutch Nationals and are born on 10th November, 1969 and 28th September, 1967 respectively. They reside in the Netherlands.

They were married on 24th June, 2005 under monogamous system of marriage.

The 1st Applicant is the Executive Director and Initiator of a company “**TWWW in BV**” and receives yearly emoluments of € (European Euro) 45,000 and the 2nd Applicant is working as a consultant with FM earning annual emolument of Euro 26,000. The Bank statements from ABN AMRO, Rotterdam confirm their financial status.

After the council for Child Welfare Rotterdam submitted its assessment and recommendation, in respect of the Applicants, on 14th November, 2006, the Ministry of Justice of The Netherlands, permitted the Applicants to adopt a first child of foreign nationality with certain conditions namely; the age difference between the child and themselves does not exceed 40 years, (which condition is just fulfilled by the Applicants) and that the child has not attained age of six years which is not the case in this matter.

Other conditions like the child being in good health and not suffering from dangerous infectious disease and the natural parents have relinquished their right over the child are also fulfilled/met as per the facts before the court.

The Applicants are also shown to be in good physical and mental health.

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The family of the Applicants are very supportive of the decisions. The parents and brother have visited them in Kenya.

Their objectives to adopt a needy child are many fold. The first is the medical complications faced by the 2nd Applicant, and the passion of the 1st Applicant to adopt a needy child as he has, during his travels over the world, seen suffering of many needy children.

I am also satisfied that over and above their financial capacity as shown to the court, as per the state regulations a child is entitled to Euros 2,400 per annum in allowances. I have further noted that his name is included in Insurance policy with Actief in Gezondheid Insurance Company of Netherlands – the number being [...]. They own a house (four bed roomed) in Rotterdam. It is to be noted that the education is free for the child in The Netherlands.

To conclude, I note that the Applicants have been approved by the Adoption Committee, under the Act on 9th October, 2008 and issued its Approval Certificate No.[...] dated 5th November, 2008.

The Applicants have also appointed one NG, their friend to be the legal guardian of the child and she has consented by an affidavit sworn on 6th June, 2008.

Lastly, the Applicants do recognize and accept the right of the child of inheritance.

As against that the child was born at Nyeri District Hospital on 23rd April, 2007 and abandoned by his mother who absconded immediately after the birth. A letter Reference No.(L.R.G)/5/22/1(19) dated 12th July, 2007 from the Nyeri Police Station Confirms the said fact. The child was later transferred to New Life Home Trust, Nyeri on 20th July, 2007. The Nyeri Children's Court vide P & C No.62/07 committed the child to the said home on 18th July, 2007 upon the request of the District Children Officer, Nyeri.

The child was placed with the Applicants for Mandatory bonding prior to adoption on 12th December, 2008 vide Foster Care Agreement. The letter from Nyeri Police Station dated 12th February, 2008 confirms that no one has come forward to claim the child. The child has been declared free for Adoption by Little Angels Network (an Adoption Society) on 15th October, 2008 vide certificate No.[...].

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In view of the aforesaid facts, I do order that filing of the consent of the natural parent/s of the child be dispensed with. Moreover the consent from New Life Trust is filed on 12th June, 2009.

Over and above what is said hereinbefore, I have carefully considered the reports from the Director of the Children Services dated 28th April, 2009, from the Little Angels Network dated 12th March, 2004 and that of the Guardian ad litem dated 21st April, 2009. They have, without any adverse comments, recommended the adoption which in their respective view shall be in best interest of the child.

Lastly but not the least I had asked for a letter from the Embassy of the Kingdom of The Netherlands which I confirm that upon the order of adoption from the court in Kenya, the child shall be granted a visa and residence permit and shall have same right as those of Dutch citizens born in the Netherlands.

With the above facts before me, I am satisfied that the Applicants have fulfilled the legal requirements of the Children Act and I am further satisfied that the grant of the order prayed for will be in the best interest of the child who shall have a family's warmth as against a communal environment in an Institution.

In the premises, I do authorize the Applicants to adopt the child who shall be known as MPK Van W and his birth date shall be entered as 23rd April, 2007.

I shall also appoint NG of the Netherlands, to be a legal Guardian of the child.

I further direct that the above orders be entered into the Adoption register held at the office of the Registrar-General.

I discharge henceforth the Guardian ad litem.

Dated, Signed and Delivered at Nairobi this 26th day of June, 2009.

K.H. RAWAL

JUDGE

26.6.09