

IN THE HIGH COURT OF TANZANIA
AT MWANZA
MISC. CIVIL CAUSE NO. 06 OF 2021
IN THE MATTER OF THE LAW OF THE CHILD ACT. R.E. 2019
AND
IN THE MATTER OF APPLICATION FOR AN ADOPTION ORDER
BY
AB.....PETITIONER
AND
IN THE MATTER OF
XY.....INFANT

RULING

Date of last Order: 16/11/2021

Date of Ruling: 19/11/2021

M. MNYUKWA, J

In the present application, Ms. AB (names withheld to hide identity) has petitioned before this court for the adoption of the infant, XY (names withheld to hide identity). The petitioner is a businesswoman, 46 years old and a Tanzanian. The infant child who is subject of the present adoption application is a female and according to the birth certificate annexed in this application she was born on 10th October, 2015. Thus, she

is 6 years old by now. On 24/03/2017 the District Council of Geita placed the said child to the petitioner, Ms. AB to be a foster parent.

The child is an orphan as it is clearly stated by the social welfare officer in the social investigation report filed in this court. The social welfare officer, Ms. Stella Raphael Mbura among other things, filed a social investigation report in accordance with the provision of Rule 11 of the Adoption of a child Regulations, 2011 to give detailed information about the child. Ms. Stella Raphael Mbura was duly appointed by this court after confirmed that she was appointed by the commissioner for social welfare to be a guardian ad-litem as per letter dated 24th November 2020 with Ref. No. APPL No. 5095/2016/7.

When the matter was scheduled for hearing, the court ordered the petitioner and the child subject to adoption to appear physically before the court. Thus the court had the opportunity to examine the petitioner, the guardian ad-litem and the child.

On the day of hearing, the petitioner was represented by Ms. Hidaya Haruna, the learned counsel accompanied by the social welfare officer, Ms. Stella Raphael Mbura appeared as a guardian ad-litem with the role of representing the best interest of the child. Ms. Hidaya Haruna submitted that the petitioner, AB prays before this court to be granted an



order to adopt the child whose parent are unknown. The said child was found in the street then she was sent to the police station and later on placed to the orphanage centre called Neema Orphanage Centre. Ms. Hidaya Haruna added that the petitioner, AB meet with the child XY, when she visited Neema Orphanage Centre, she loved her and decided to adopt her.

Ms. Hidaya Haruna went on to state that the petitioner wish to change the name of the infant from being called XY and to be called CD. Ms Hidaya Haruna averred that, the petitioner used to call the child by the name of CD as it is stated under paragraph 12 of the petition. Ms. Hidaya Haruna insisted that, the petitioner being a businesswoman is capable of taking care of a child and provide all the basic needs of the child XY. On the afore stated reasons, Ms. Hidaya Haruna prays this court to grant the application.

On the other side, the guardian ad- litem, Ms. Stella Raphael Mbura submitted that, she personally made a follow up to the petitioner to ascertain if she is capable of taking care of the child and if she provides all necessities of life to a child. Ms. Stella Raphael Mbura submitted that she recommend the petitioner to be granted an order for adoption for the best interest of the child.



Upon carefully going through the relevant documents attached along with the present application, the submissions of the counsel of the petitioner as well as the submissions of the social welfare officer, the main issue for consideration and determination in this application is whether it is for the best interest of the child if the petitioner is granted an adoption order.

In determining the above issue, the court is guided by section 4 (2) of the Law of the child Act, Cap 13 R.E 2019 as well the Adoption of a Child Regulations, 2011. In our case at hand the available record shows that the infant child is an orphan whose parents are nowhere to be found. The said child was placed in a foster case to the petitioner since 24th March, 2017 up to now, almost the period of 4 years and 8 months. The infant who is schooling at standard one seems to be comfortable and to have bond with the petitioner, well cared and provided with all necessities of life for her upbringing. The same is supported with Social Investigation Report which suggests that the petitioner is suitable to adopt the child. The records also shows that the Commissioner for Social Welfare consented the petitioner to adopt and its written consent was tendered in court.

In determining this application I have also considered the provisions of section 56 (1) (3) S. 59 (2) and S. 75 (2) (d) of the law of the Child



Act, Cap 13 R.E 2019 and rule 11 (1) of the Adoption of a Child Regulations, 2011 and satisfied that all the requisite conditions has been met for this court to grant an order of adoption to the petitioner.

In the upshot, I hereby grant the petition subject to terms and provisions of the Law of the Child Act, Cap. 13 R.E 2019. Thus, the petitioner AB is authorized to adopt the child XY who is subject of this petition. The child is for avoidance of doubts adopted in the name of CD as stated in the paragraph 12 of the petition and as it was requested by the petitioner. The Registrar General of Birth is hereby directed to cause such an entry to be made in the register accordingly.

It is so ordered.



M. MNYUKWA
JUDGE
19/11/2021

Ruling delivered on 19th day of November, 2021 via audio teleconference whereby all parties were remotely present.



M. MNYUKWA
JUDGE
19/11/2021