

**IN THE HIGH COURT OF THE UNITED REPUBLIC OF TANZANIA
IN THE SUB-REGISTRY OF DAR ES SALAAM
AT DAR ES SALAAM**

MISC CIVIL APPLICATION NO. 516 OF 2021

**IN THE MATTER OF LAW OF THE CHILD ACT, CAP. 13, R.E. 2019
AND
IN THE MATTER OF A MINOR, *XYZ*, OF P. O. BOX 22784, DAR ES SALAAM
AND
IN THE MATTER OF APPLICATION FOR ADOPTION ORDER
BY
FB AND *EB* OF P. O. BOX 22784, DAR ES SALAAM**

RULING

10th and 17th June, 2022

KISANYA J.:

By way of petition preferred under sections 54 (1) (a) and 55 (1) (a) of the Law of the Child Act, 2009, *FB* and *EB* (the petitioners whose names are withheld) pray for an adoption order of a child who is a male person, Tanzanian born on 16th November, 2019 (hereinafter referred to as “the child” or “*XYZ*” to disguise his identity).

It is gleaned from the petition that the petitioners are Tanzanians and residents of Bagamoyo District in Coast Region. They were married on 26th January, 2008. While the first petitioner (*FB*) is a businessman, the

second petitioner (*EB*) works with USAID Dar es Salaam as a legal officer.

As far as the child *XYZ* is concerned, it was averred that he was abandoned by his parents and placed at Msimbazi Center Orphanage, Dar Salaam. On 13th November, 2020, the child was placed in the custody of the petitioners as foster parents. That was after obtaining an approval of their application for fosterage by the Commissioner for Social Welfare under section 56 (3) (b) of the Law of the Child Act, 2009 (Cap. 13, R.E. 2019).

Thereafter, the petitioners lodged the present application. They undertake to provide maintenance and education for the child. Apart from the order of adoption of the child, the petitioners pray for an order that the child be known by the name of *ABC* (name hidden) and that the order of adoption be served upon the Registrar of Births.

In the course of hearing this matter, the petitioners enjoyed the legal services of Capt. Ibrahim Bendera, learned advocate while, Ms. Asha Ally Mbarouk, Senior Social Welfare Officer was appointed by the Commissioner for Social Welfare and approved by this Court as a *Guardian Ad Litem* of the child. In accordance with the dictates of the law, the *Guardian Ad Litem* was ordered to file a social investigation report on the matter at hand.

In her social investigation report dated 31st May, 2022, Ms. Asha Mbarouk, recommended this Honourable Court to grant the adoption order of the child to the proposed adopted parents, *FB* and *EB*. Some of the factors taken into account by the Guardian *Ad Litem* are to the effect that: *One*, the petitioners are Tanzanian citizen and they reside in Tanzania. *Two*, the petitioners are both financially capable to maintain the child. *Three*, the petitioners need and love children because the duo have not been blessed with a child. *Four*, the petitioners were highly recommended by referees as good people capable of providing good care for the adoptive child. *Five*, the assessment shows that the child enjoys living with the petitioners and their family in conducive environment.

Therefore, when the matter came for hearing, Capt. Bendera and both petitioners urged me to grant the application. Mr. Joseph Mwita, social welfare who appeared on behalf of the Guardian *Ad Litem* prayed this Court to grant the application as recommended in the Social Investigation Report. He was of the view that the petition was in the best interest of the child.

Having reviewed the petition and the evidence presented to this Court, the issue for my determination is whether the petition meets the requirements of law for this Court to grant the order for adoption. In

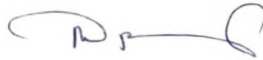
determining that issue, the question to be answered is whether the petitioners are willing and capable of taking care and maintain the child. In other words, the primary issue for my determination is whether the best interest of the child requires this Court to grant the order for adoption.

I have taken into account that the petitioners have been living with the child as their foster parents from 13th November, 2020. I have also considered that the Senior Social Welfare Officer who happened to be the Guardian *Ad litem* of child had a time to inquire on how the child was taken care by the petitioners from 13th November, 2020 when he started to live with them as foster parents. As alluded earlier, the social investigation report suggests that the petitioners' living environment is favourable for the child's growth and progress. It was further stated in the said report that the petitioners have financial resources and are willing to provide health and education for the child. Above all, the Senior Social Welfare Officer recommended that granting of the adoption of the child in favour of the petitioners will be in the best interest of the child.

In view of the foregoing consideration, I find this petition to be in the best interest of the child as per evidence and the findings displayed in the report of the social welfare office. Consequently, I hereby order as follows:-

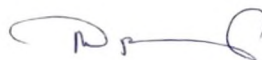
1. The petition is granted.
2. The Petitioners, *FB* and *EB*, are declared the adoptive parents of the child, *XYZ* (name to be shown in the adoption order).
3. Upon granting this adoption order, the child will renounce his former names of *XYZ* and be known as *ABC* (name to be shown in the adoption order).
4. The adoption order be served upon the Registrar of Births and Deaths for his necessary action under the Law of the Child Act (*supra*).
5. The petitioners will bear the costs of this matter.

Dated at DAR ES SALAAM this 17th day of June, 2022.



S.E. Kisanya
JUDGE

COURT: Ruling delivered this 17th day of June, 2022 in the presence of the 1st petitioner, Ms Banana Kalema, learned advocate for the petitioners and Mr. Joseph Mwita, Social Welfare Officer. B/C Zawadi present.



S.E. Kisanya
JUDGE
17/06/2022

