

**IN THE HIGH COURT OF THE UNITED REPUBLIC OF TANZANIA
(IN THE DISTRICT REGISTRY OF DAR ES SALAAM)
AT DAR ES SALAAM
MISCELLANEOUS CIVIL CAUSE NO. 564 OF 2021**

IN THE MATTER OF THE LAW OF THE CHILD ACT, CAP. 13 R.E. 2019

AND

**IN THE MATTER OF GLADNESS LUCAS AS A CHILD OF P.O.BOX
11883, MAJOHE, KICHANGANI, DAR ES SALAAM, TANZANIA**

RULING

22nd June, & 5th July, 2022

ISMAIL, J.

This is a ruling on an application preferred by Olester Abel Mkuwa, the petitioner. The application seeks to obtain an order for adoption of Gladness Lucas, an infant. Enabling the application are the provisions of sections 54 (1) and 55 (1) of the Law of the Child Act, Cap. 13 R.E. 2009; regulations 4 (1), (4) and 11 of the Adoption of A child Regulations; and section 95 of the Civil Procedure Code, Cap. 33 R.E. 2019.

The petition and the supporting affidavit lay facts that support the applicant's quest for the orders sought. Olester Abel Mkuwa, the deponent of the affidavit has stated that the infant was approximately two months old,

when she was recovered from Katoro forest in Geita Region, where she had been abandoned. She was taken to Neema House, an orphanage located in Geita town and from which the applicant took her.

According to the petition and the report of the guardian *ad litem*, Gladness, is a female infant, a Tanzanian by birth, and whose biological parents are unknown. The guardian *ad litem* has gone further to obtain a sworn deposition of Godson Evarist Mgimwa, the applicant's estranged husband. The latter has deposed that, though he separated with the applicant seven years ago, he is aware of the ongoing adoption process and that he has no objection to the issuance of the adoption order.

It is also clear that the Commissioner for Social Welfare has consented to the adoption, and that such consent is attached to the report submitted to this Court, together with a police report that certifies the applicant's character as good and unblemished.

The social welfare office has carried out an investigation regarding the petitioner, his family and the environment in the petitioner lives. This was intended to assess the petitioner's ability to bring up the infant and allow for her development. The recommendations from family members and other referees were nothing short of glowing. They all held the view that the

petitioner has what it takes to take up the parental responsibility. They all recommended and approved the intended adoption.

On her part, the guardian *ad litem* has also exhibited her satisfaction of the petitioner's means and ability, requisite for bringing up and maintaining the infant. She recommended that an adoption order be granted as prayed.

Having gone through the application and all accompanying documents and, after considering the brief submission by Mr. Nkwera, the petitioner's counsel, as well as the report of the guardian *ad litem*, the clearest indication is that the petitioner has done what is necessary to demonstrate that she is suitable to take up the role of upbringing the infant. Gladness, the infant, looked joyous, playful and comfortable in the hands of the petitioner, and the petitioner's love and affection to the child was quite conspicuous.

I take the view that, true to the report of the guardian *ad litem* and consent granted by the Commissioner for Social Welfare - both of which appear to have been deservedly obtained - the petitioner has met the criteria for the grant of the application. I am persuaded and satisfied that the petitioner understands the nature and effect of the adoption order, the legal responsibilities that go with the grant of the order, and that she is able and willing to assume such responsibilities.

I am of the view that granting of the adoption order will be in the best interests of the child, a key component in the issuance of adoption orders.

In view thereof, the application is granted. Accordingly, an order is granted in favour of Olesta Abel Mkuwa, for adoption of the infant Gladness Lucas.

It is so ordered.

DATED at **DAR ES SALAAM** this 5th day of July, 2022.



M.K. ISMAIL

JUDGE

05/07/2022

