

**IN THE HIGH COURT OF THE UNITED REPUBLIC OF TANZANIA**

**MOSHI DISTRICT REGISTRY**

**AT MOSHI**

**MISC. CIVIL CAUSE NO. 9 OF 2021**

**IN THE MATTER OF THE LAW OF THE CHILD ACT R.E 2019**

**ADOPTION OF CHILDREN REGULATIONS 2011 (GN.NO 197 OF 2011)**

**AND**

**IN THE MATTER OF AN APPLICATION FOR ADOPTION ORDER BY  
LM.....PETITIONER**

**AND**

**IN THE MATTER OF FW.....INFANT**

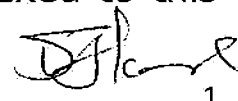
**RULING**

*9/3/2022& 27/4/2022*

**Simfukwe, J.**

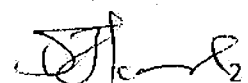
The petitioner **LM** (names withheld to hide identify) has petitioned before this court **under section 4 (1) of the Law of the Child Act, 2009 (R.E 2019)** for the adoption of the infant, **FW** (names withheld to hide identify). The petitioner is by occupation office attendant aged 50 years old, single and a Tanzanian.

The infant child who is subject of the present adoption application is a female and according to the birth certificate annexed to this



application, she was born on 20<sup>th</sup> March 2011, meaning that she is 11 years old. The said child was abandoned by her mother at KCMC Hospital on 29/4/2011, whereas her parents could not be traced. Social welfare department of Moshi Municipal Council, placed the said child at Upendo Orphanage Centre in Moshi District. On 21/1/2014 the said Child was placed under custody of the Petitioner as foster parent after an approval of her application for fosterage by the Commissioner for Social Welfare as required by **section 56 (3) (b) of the Law of the Child Act**, (supra). The Social Investigation Report filed in this court by Ms Magreth Reuben a social worker at Moshi Municipality in accordance with **Rule 11 of the Adoption of a child Regulations**, 2011 give detailed information about the child. Ms Magreth Reuben was duly appointed by this court as Guardian *Ad Litem* after being appointed by the Commissioner for Social Welfare to be Guardian *Ad Litem* pursuant to the letter dated 16/9/2013, with Ref. No. 2114/2013/2. The Court ordered the petitioner and the child subject of the adoption to appear before the court. Thus, the court had an opportunity to examine the petitioner, the Guardian *Ad Litem* and the child.

When the matter was set for hearing, Ms Magreth Reuben a Social Welfare Officer appeared as a Guardian *Ad Litem* for the purpose



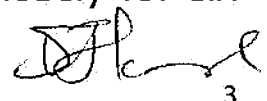
of representing the best interests of the child, while the Petitioner appeared in person.

The Guardian *Ad Litem* submitted among other things that the child FW a female, after being abandoned at KCMC Hospital, she was taken care for some weeks. Later, she was taken to Upendo Children's home.

They made follow up of the information of the mother and father of the infant in vain. Thus, all natural relatives of the infant are unknown. The infant was taken care at Upendo Children's Home for about two to three years, under the supervision and guidance of the Social Welfare office.

In 2013, the petitioner went to the Social Welfare office seeking to adopt the above-named infant who later was placed under the petitioner as her foster mother. That, the Petitioner stated that she does not have her own biological child due to the fact that her fallopian tubes are blocked. The petitioner was directed all the procedures and she complied. Then, the Commissioner of Social Welfare granted the prayers of the petitioner.

The Guardian *Ad Litem* submitted further that the child FW has been under the custody of the Petitioner LM for more than 8 years. The Guardian *Ad Litem* has been making follow up closely for six



months and found that the petitioner has been taking care of the said child. Her visits were done by surprise. In her findings, the Guardian *Ad Litem* found that the said child acknowledges the petitioners as her mother, she is progressing well, happy, cheerful and looks healthy. The child is attending studies at an English Medium Private School. She was formerly at Eden Garden English Medium Primary School. Meanwhile, she is in standard five at Nazarene Primary School.

The foster mother LM is an office attendant at KCMC College with a monthly salary of Tshs 600,000/= per month. She also engages herself with other businesses like farming, livestock keeping, retail shop, dry cleaner and house renting.

Ms Magreth went on to state that, she also inspected the residential house of the Petitioner which is a 3 rooms well ventilated house, and the child has her own room. She said that she is convinced that the Petitioner LM has shown affection, great love and commitment to the child. That, the petitioner is capable of bringing up the child psychologically, spiritually and socially.

A birth certificate which has one name was attached to the investigation report and petition, whereas the petitioner would like to add names to the child.



Moreover, it was stated that no payment or other rewards had been received or agreed upon between the parties.

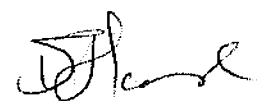
The Guardian *Ad Litem* was satisfied that the Petitioner had affection and do care for the said child. Thus, she will help the child to meet her dreams and that for the interests of the said child, this petition should be granted.

On her part, the Petitioner LM, briefly stated that she prays this honourable court to allow her to adopt the said child as her own child. She also prayed to add names to the child so that she will have full names.

I have carefully examined all relevant documents attached to the instant application, considered submissions of the Guardian *Ad Litem* and the Petitioner. The issue is *whether this petition is in the best interest of the child for it to be granted.*

**Section 4 (2) of the Law of the Child Act Cap 13 R.E 2019** provides that:

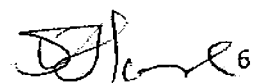
*"The best interest of a child shall be a primary consideration in all actions concerning a child whether undertaken by public or private social welfare institutions, courts or administrative bodies."*



In this matter the record reveals that the child subject of this petition has no natural relatives and her parents are unknown. The child was under the foster care of the Petitioner since January 2014 to date, which is more than 8 years. The child is in standard V at an English Medium private Primary School, whereby the school fees is paid by the Petitioner. As well stated by the Guardian *Ad Litem*, the child seems has a bond and affection with the petitioner. She looks happy, healthy and well cared. The Social Investigation Report supports the above findings and it suggests that the Petitioner deserves to adopt the child as prayed. It is on record that the Commissioner for Social Welfare approved the petitioner to adopt the child, whereas written consent of the Commissioner was attached to this petition and the Social Investigation Report.

It is a considered opinion of this court that all requisite conditions of adopting a child have been met for this court to grant an order of adoption to the petitioner. **Section 56 (1) (3), 59 (2) and 75 (2) (d) of the Law of the Child Act (*supra*)** read together with **Rule 11(1) of the Adoption of a Child Regulations, 2011** (*supra*) have been complied with.

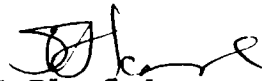
In the event, I hereby grant this petition as prayed. Therefore, the petitioner **LM** is authorised to adopt the child **FW** who is the subject of this petition. For avoidance of doubts, the said child is

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adopted in the names of **FFF** as started at paragraph 18 (b) of the Petition as prayed by the Petitioner.

I further order that this adoption order be served to the Registrar General of Births and Deaths who shall make an entry recording this Adoption order in the register of adopted children pursuant to **section 69 and 70 of the Law of the Child Act** (*supra*)

It is so ordered.



**S.H.Simfukwe**

**Judge**

**27/4/2022**