

IN THE HIGH COURT OF THE UNITED REPUBLIC OF TANZANIA
MOSHI DISTRICT REGISTRY
AT MOSHI
MISCELLANEOUS CIVIL CAUSE NO 04 OF 2023
IN THE MATTER OF THE LAW OF THE CHILD ACT [CAP 13 R.E 2019]
ADOPTION OF CHILDREN REGULATIONS 2011, GN NO 197 OF 2011
AND
IN THE MATTER OF AN APPLICATION FOR AN ADOPTION ORDER
BY
IDDA LEONI MREMAPETITIONER
AND IN THE MATTER OF
ANETTE/STELLA..... INFANT

RULING

11th & 18th Sept. 2023.

A.P.KILIMI, J.:

The petitioner one Idda Leoni Mrema lodged this application seeking an adoption order in respect of the child one Anette/Stella. In her duly sworn affidavit in supporting this petition, she has averred that, her age is 42 residing at Kelamfua Mokala Rombo, and working as a nurse officer at Rombo District within Kilimanjaro Region.

When this application came for hearing before me, the petitioner was represented by Mr. Deusderius Hekwe, learned advocate. She then testified

that, she is unmarried and the child requesting to be adopted is named is Anette/ Stella, a girl child aged 7 years currently is studying in class II at St. Joseph Primary school.

She further said, the child was found by police and was taken to private children home care center known as Cornelio Ngaleku, she followed the procedure and took the child at the said age of 5 years from that center. She has stayed with the child for two years until now as foster care, and since no any relative has showed up, the petitioner has decided to adopt her and give her parental care like her biological child and she will have all rights from her like a child. She also said the child was found nameless and the foster care center named her Furaha and after baptized she was named Anette/Stella, but now Petitioner has named the child as Jaylee Fraterly Masika for purpose of enrolling to a school.

Then the petitioner tendered, certificate of Police Clearance letter dated 19/10/2020; Police Loss report of the said Child to wit no. RO/B.1/7/8/32 dated 19/08/2021, two letters from Ministry of Health, Community development, Gender, Elders and Children with reference no. APPL. No. 7333/2021/4 dated 03/9/2021 and letter no. APPL. No. 7333/2021/2 dated 3/8/2021; and the letter from the Ministry allowing the

petition to adopt the child with Ref. No. Appl. No. 7333/2021/6 date 14/2/2023. Both above were admitted in this court and marked as exhibits P1, P2, P3 and P4 respectively.

To support this prayer, the counsel for petitioner procured one witness, is Victor Boniphasi Ombay who was appointed by the Ministry to be 'Guardian Ad Litem' vide letter with Ref. No. Appl. No. 7333/2021/6 date 14/2/2023. The witness said is Social Welfare Officer at Rombo District, he knows the child was cared at private children home called Colnerio Ngaleku, this home is caring children who are orphans and lost children, He has made a Social Inquiry and made a report.

In his inquiry he has revealed that the infant Annete/Stella was found by Police, then was kept at Colnerio Child home Center, therein Sisters who took care of the children gave her the name of Furaha, later she was baptized and given the name of Stella/ Annete, the child stayed at the said children home and no relative show up, until she was taken by Petitioner. Currently, the child is staying with Petitioner as Foster Care since 2021 after she followed legal procedure from the Ministry, He further said knows the Petitioner is working as nurse officer at Rombo District Council, is unmarried, is healthy and has no mental problem. He has satisfied that the petitioner is

a Tanzanian. This witness then tendered a Social Investigation report which annexed with Petitioner's Birth Certificate, Mental and medical fit certificate and copy of salary slip, the same was admitted and marked P5.

Having grasped the above evidence, the point of consideration is whether the petition meets the requirements of the law for the child to be adopted, and by doing so whether the child will be at the best interest of the child. In responding this, I wish to be guided by the Law of the Child Act No. 21 of 2009 (hereinafter "the Act") as well as the Adoption of a Child Regulations, GN No. 197 of 2012. According to section 4 (2) of the Law of the Child Act No.21 of 2009 states that: -

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

Moreover, Section 56 (1) and, (3) and 52(2) of the Act provides that: -

" s.56 (1) an adoption order shall not be made unless the applicant or, in the case of a Joint application, one of the applicants:
(a) is of or above twenty - five years of age and at least twenty-one years older than the child.

(b) Is a relative of the child and is above the age of twenty-five.

(c) In case of application by one of the spouses, the other party has consented to the adoption; or

(d) a single woman where the applicant is a citizen of Tanzania and with due regard to the best interest of the child.

(3) An adoption order shall not be made for a child unless:

a) the applicant and the child reside in Tanzania but this shall not apply if the applicant is a citizen of Tanzania resident abroad,

(b) child has been continuously in the care of the applicant for at least six consecutive months immediately preceding the date of the submission of the application; and

(c) the applicant has notified the Commissioner for Social Welfare of his intention to apply for an adoption order for the child at least three months before the date of the order."

s.59 (2) Notwithstanding subsection (1), the court shall not make an adoption order unless there is a social investigation report prepared by the Social Welfare Officer supporting the application for adoption."

I have considered the evidence above, it has been established with approval that the petitioner applied for foster care of the child and granted,

she has stayed with the child for two years to date. The social welfare officer after the conduct of investigation, reported that the child under the hands of the petitioner is living in a favorable condition and get all necessary needs. In his report he has attached the salary slip of the petitioner to show that she is financially stable to take care of the child. The officer also recommended that if the child is to be adopted by the petitioner for the best interest of the child will be enhanced.

In view of the evidence, I am satisfied that, the petitioner followed and complied with all the requirements needed in adoption as directed under section 56 and 59 of the Act. As the record shows that the child has no parent neither any relative showed up to this moment, and as said above the child is already stayed with the petitioner for two years now, then no need of consent from the parents as the petitioner is now acting as a parent.

Having considered and evaluated above as per requirements of the law, I am of settled view the safeguard and welfare of the child has been proved will be protected by the Petitioner. In that regard I am therefore satisfied that it is in the best interest of the child that an adoption order be granted as prayed.

In conclusion thereof, I proceed to grant the Petition, and Ms. IDDA LEONI MREMA, the Petitioner is authorized to adopt the infant ANETTE/STELLA. Thus, the Registrar General of Birth is hereby directed to cause such an entry to be made in the register accordingly. No order as to the costs.

Order accordingly.

DATED at **MOSHI** this 18th day of September, 2023.



X

JUDGE
Signed by: A. P. KILIMI

Court: Ruling delivered today on 18th day of September 2023 in the presence of advocate Patrick Paul holding brief of Mr. Deusderius Hekwe learned advocate also Petitioner absent.

Sgd: A. P. KILIMI
JUDGE
18/09/2023