

**IN THE HIGH COURT OF THE UNITED REPUBLIC OF TANZANIA
AT MWANZA REGISTRY**

MISC. CIVIL CAUSE NO. 05 OF 2022

IN THE MATTER OF THE LAW OF THE CHILD ACT, 2009

AND

IN THE MATTER OF APPLICATION FOR AN ADOPTION ORDER

BY

AB..... 1ST PETITIONER

CD.....2ND PETITIONER

AND

IN THE MATTER OF

XY.....INFANT

RULING

Date of last Order: 17/08/2022

Date of Ruling: 22/08/2022

M. MNYUKWA, J

The present petition is brought by the petitioners who are Mr. AB and Ms. CD (names withheld to hide identity) whom are before this court for the adoption of the child, XY (names withheld to hide intily). According



to the petition, the petitioners are spouses and by occupation, one of the petitioners is a student at VETA Mwanza and another a teacher at Isamilo International School Mwanza. Mr AB is 30 years old and a Tanzanian by nationality while Ms. CD is a New Zealand by nationality and she is 38 years old. The child who is subject of the present adoption application, XY is a female and according to the birth certificate annexed in this application, she was born on 28th December, 2012. The petitioners started to live with the infant since 2020.

The child was placed to her grandfather since she was seven (7) months old as it is clearly stated by the social welfare officer in the social investigation report filed in this court. The social welfare officer, Ms. Edith Mokiwa among other things filed a social investigation report in accordance with the provision of the Adoption of a Child Regulations, 2011.

When the matter was scheduled for hearing, the court ordered the petitioners, the biological parents and the infant to appear physically before the court. Thus, the court had the opportunity, to examine the petitioners, the biological child, the guardian ad-litem and the infant.



On the day of hearing, the petitioner was represented by Mr. Alex Banturaki, the learned counsel who accompanied by the social welfare officer, Ms. Edith Mokiwa.

Mr. Alex Banturaki submitted that, the petitioners, prays before this court to be granted an order to adopt the child, XY whose parents consented the named child to be adopted by the petitioners. Mr. Alex Baturuki added that, when the matter was filed the petitioners were living in Mwanza but for the last six months, they are shifted to Dar es Salaam and that the petitioners lives with the infant child who is subject to adoption for three years now.

According to the petition, the petitioners wish to change the name of the child from being XY to XA and that she will be known by the name of XA instead of XY. That, according to Mr. Banturaki, the petitioners are capable of taking care of a child and provide all the basic needs of life. On the afore stated reasons, Mr. Banturaki prays this court to grant the application.

On the other side, the guardian –ad- litem Ms. Edith Mokiwa, filed a social investigation report to this court and she personally made a follow up to the petitioners to satisfy if they are capable of taking care of the



child and provide all necessities of life to a child XY. Ms. Edith Mokiwa submitted that, she recommends the petitioners to be granted an order for adoption for the best interest of the child. She added that, the petitioners live with the child, XY since March, 2020 and she became part of their family. She submitted that, the child had attachment with the second petitioner who takes care as her biological child as well as the first petitioner who takes care of the infant XY as her biological daughter. She retires by praying the court to grant an order for adoption to the petitioners.

On their part, the biological parents of the infant XY who are separated and they did not live with a child since she was seven (7) months old, consented the infant XY to be adopted by the petitioners whom they lived with the infant child XY since 2020. They also informed the court that, they understand the effect of the Adoption Order.

Upon carefully going through the relevant documents submitted along with the present application, submission of the counsel of the petitioners 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 petitioners are 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 child child XY lives with the petitioners since 2020 and her parents consented for the child to be adopted by the petitioners by filling Form No. 6 available in the Foster Care Regulations. The child XY was placed in a foster care of the petitioners since 1st September, 2021 up to now, which is almost the period of 11 months and 20 days. The child XY who is schooling, seems to be comfortable with the petitioners, well cared and provided with all necessities of life for her well upbringing. This is supported with Social Investigation Report which suggests that the petitioners are suitable to adopt the child.

In determining this petition, 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 have been met before this court grant an order of adoption to the petitioners.



In the upshot, the petition is granted and the adoption order is subject to terms and provisions of the law of the Child Act, Cap. 13 R.E 2019. Thus, the petitioners AB and CD are authorized to adopt the infant child who is subject of this petition. The child is for avoidance of doubts adopted in the name stated in paragraph 11 of the petition as it was prayed by the petitioners. The Registrar General of Birth is hereby directed to cause such an entry to be made in the register accordingly.

No order as to costs.



It is so ordered.


M. MNYUKWA
JUDGE
22/08/2022

Court: Ruling delivered on 22nd August 2022 through audio teleconference where by the counsel of the Petitioners and the social welfare officer were remotely present.


M. MNYUKWA
JUDGE
22/08/2022