

THE REPUBLIC OF UGANDA

IN THE HIGH COURT OF UGANDA HOLDEN AT KAMPALA

ADOPTION CAUSE NO. 68 OF 2007

IN THE MATTER OF THE CHILDREN ACT CAP 59

AND

IN THE MATTER OF NAKIMULI HADIJA AND KAWEESA IBRAHIM

AND

**IN THE MATTER OF AN ADOPTION PETITION BY SOPHIA NAMUTEBI THROUGH
HER LAWFUL ATTORNEY ROBINAH KIGONGO**

BEFORE: HON. LADY JUSTICE MARGARET C. OGULI OUMO

RULING

This is a petition brought under the Children Act Cap 59 for an order appointing Sophia Namutebi as the adoptive parents of Nakimuli Hadijah and Kaweesa Ibrahim.

The petition is supported by the report of the Probation and Social Welfare Officer, Wakiso District attached as Annexure "D2", the affidavit of the Petitioner dated 23-05-2007 and the Power of Attorney from the petitioner to her cousin-Robinah Kigongo dated 3-05-07.

At the hearing of the petition, the petitioner was represented by Mrs. Victoria Katamba.

It is alleged in the petition that both parents of the children are dead. This is also reflected in the probation report.

The children are, Kaweesa Ibrahim 11 and Namakula Hadija 8. Their Birth Certificates are attached as Annexures "F" and "E" respectively.

Section 45 (1) of the Children Act provides that an Adoption order may be granted to a sole applicant...where the applicant has attained the age of 25 years and is atleast 21 years older than the child.(emphasis mine)

The applicant is over 25 years of age.

S. 46 of the Children Act provides interalia that

(1)A person who is not a citizen of Uganda may in exceptional circumstances adopt a Ugandan child if she-

1. has stayed in Uganda for atleast 3 years
2. has fostered the child for atleast 36 months under the supervision of a probation and social welfare officer.
3. does not have a criminal record.
4. has a recommendation from concerning his or her suitability to adopt from his or her country's probation office or other competent authority.
5. has satisfied court that his or her country of origin will respect and recognize the adoption order.

Counsel for the petitioner submitted that the petitioner is an American citizen of Ugandan origin. A photo copy of her passport is attached as Annexure "A".

The applicant, learned counsel, submitted that she need not foster the children for 36 months as she is a relative of the children and need not apply for a foster Care Order. That she has been assisting the children financially, by providing their basic needs and education.

The Petitioner has a certificate of criminal clearance from the same state showing that she has no criminal record. A copy of the Certificate is attached as Annexure "C". Attached is the

petitioner's Pennsylvania Child Abuse History Clearance Certificate marked as "G2" on the court file.

The petitioner affirms that an order of this court will be recognized and respected by the Pennsylvania State.

There is reference letter from the Petitioner's employers-**Pinnacle Health Hospitals** attached as Annexure "B" and a letter from the Department of Public Welfare Office of Income Maintenance from the state of Pennsylvania in support of the petitioner's ability to adopt the children.

Mrs. Katamba submitted that the applicant has met all the requirements for the adoption of the children.

Under section 3 of the Children Act, in making any decision on any matter concerning a child, the welfare of the child is of paramount consideration.

Having perused the petition, and the supporting documents and having heard counsel for the applicant, court is satisfied that the petitioner who is a relative of the children has met all the legal requirements for the adoption of the children.

In view of the above, court is satisfied that the order, if granted will be for the welfare of the children.

In the circumstances, court is of the view that the petition should be allowed and it is ordered that:-

1. Sophia Namutebi is appointed the adoptive parent of Nakimuli Hadija and Kaweesa Ibrahim.
2. The petitioner is to obtain a Ugandan passport for the children and renew it from time to time as required by the law.
3. The petitioner is directed to register the order with the Registrar of Documents Ministry of Justice and Constitutional Affairs Kampala.

4. The petitioner is to register the order with the United States Embassy in Uganda and the Ugandan Embassy in the United States.
5. The Petitioner is directed to register the order with the relevant authority responsible for Probation and social welfare in her state.

MARGARET C. OGULI OUMO

JUDGE

17/07/07

Present:

1. Mr. Isaac Mugume holding brief for Mrs. Victoria Katamba, counsel for the Petitioner.
2. Betty Lunkuse-Court Clerk