

**THE REPUBLIC OF UGANDA**  
**IN THE HIGH COURT OF UGANDA HOLDEN AT KAMPALA**  
**(FAMILY DIVISION)**  
**ADOPTION CAUSE NO. 0078 OF 2010**  
**IN THE MATTER OF THE CHILDREN'S ACT (CAP 59)**  
**AND**  
**IN THE MATTER OF KANYESIGYE MARGARET**  
**AND**  
**IN THE MATTER OF AN APPLICATION ORDER BY UWIMBABAZI**  
**MARGARET**

**BEFORE: HON. LADY JUSTICE C.A. OKELLO\_**

**RULING**

This is a petition by Margaret Uwimbabazi for the adoption of a child Kanyesigye Margaret. The petition is under Article 126 of the Constitution and Sections 44 and 45 of the Children's Act.

The petitioner is a naturalized British Citizen, previously, she was a Ugandan born on 9<sup>th</sup> October 1964 at Mbarara Hospital Uganda. She currently resides at 6 Invicta Close, Westmacott Drive, Feltham in Middlesex U.K. The petitioner is a Social Worker who at the time of this proceeding, was employed at Welmede housing Association, By-Fleet House, Guildford Road Chertsey Surrey. She is a mother of two children: a boy aged 28 years old and a girl aged 19 years, who both reside in Kampala Uganda.

Ms. Kanyesigye Margaret on the other hand, is a daughter of Mr. Ephrahim Rubategyeka and Phoebe Kekibunda. She was born on the 4/11/1997. Sadly, her mother died on the 15/4/2001, her father, I am informed is in poor health condition. He is actually said to be terminally ill with the consequence that the child has been financially dependent on the petitioner. The petitioner is in fact the child's paternal aunt.

From affidavit evidence presented to this court, this petition is by a British Citizen for the adoption of a Ugandan child. In this respect, even though the petitioner was once a Ugandan Citizen, she relinquished that citizenship the moment she became a naturalized British Citizen. At least, that is the state of the evidence before me since there is no evidence that she holds dual citizenship of Uganda.

Given the evidence, the petition has to be treated as one for inter-country adoption Order. A petition for inter-country adoption order, has to satisfy a number of requirements under sections 45, 46 and 47 of the Children's Act. In addition, court has to be satisfied that the petition is not a commercial enterprise. Wherein money has played a part or is to play a part as consideration in the petition. The process should be a clean and so should be the welfare of the child in the petition.

Concerning pre-requisites for obtaining the Order under Section 45, evidence before me proves that the petitioner is 45 years old and is also 25 years older than the child who is 11 years old.

Section 40 requirements are:

The petitioner must have stayed in Uganda for at least three years;  
Must have fostered the child for at least thirty-six months under the supervision of a Probation and Social Welfare Officer. Should be recommended by his/her country's Probation and Welfare Officer or other competent authority to be a suitable person to adopt a child. In addition, the petitioner should satisfy court that his/her country of origin will respect the adoption order.

Lastly, the petitioner has to obtain consent of the parents.

The age requirement of section 45 (1) is satisfied beyond any dispute. Photocopies of the petitioner's Passport recorded her date of birth as 9/10/1964 (annex A to petitioners' supplementary affidavit). The child's date of birth is recorded in her Birth Certificate as 4/11/1997. There is a thirty years plus age difference between the two. The surviving parent of the child Mr. Ephraim Bisangama Rubategyeka has consented to the application by affidavit. He also attended court when the petition was heard.

With regard to Section 46 requirements, the petitioner has proved visits to Uganda mostly in 2009 and this year. However, she deponed in her affidavits that she has created parent child relationship with the child since her mother died in 2001. I observed the bond during hearing when she has in addition been fully catering for the child since the surviving parent is in poor health and unemployed. Mr. Rubategyeka confirmed the petitioner's claim in his affidavit.

Given the peculiar circumstances of this case viz (i) the blood relationship between the petitioner and the child; (ii) the fact that the petitioner was once a Ugandan citizen by descent who still has some connection with Uganda; I have decided to dispose with the provisions on period of residency and fostering. I notice that the applicant is herself a Social Worker from which asseveration I believe her to be a suitable person to adopt a child.

The law also requires court to ascertain the wishes of the child concerning the petition. In this case, the child told court that she would like to be adopted by her aunt. In fact, when I pointed out at one stage that the petition may be in jeopardy because of weak or non compliance with some of Section 46 provisions that I have already alluded to, the child was as upset as the petitioner.

Lastly, considering the evidence before this court, I am of the opinion that this petition is in the best interest of the child. Her welfare will be taken care of by granting the petition.

Consequently, I grant the petition and make these orders:—

- (1) The petitioner hereby adopts the child Margaret Uwimbabazi.
- (2) The petitioner shall cause the Registrar of Births and Deaths to enter the particulars of this Adoption Order in the adoption of Children's register.
- (3) The petitioner shall pay the costs of this petition.

**C.A. Okello**

**JUDGE**

**18/08/2010**