

**THE REPUBLIC OF UGANDA
IN THE HIGH COURT OF UGANDA AT JINJA**

FAMILY CAUSE NO. 029 OF 2013

**IN THE MATTER OF KISULE GRACE (CHILD)
AND
IN THE MATTER OF AN APPLICATION FOR APPOINTMENT AS LEGAL
GUARDIAN OF KISULE GRACE (AGED 5 YEARS)
BY LYN SIMON**

BEFORE: THE HON. JUSTICE NAMUNDI GODFREY

RULING

This application is brought under Article 139 (1) of the Constitution, Section 3 and Schedule 1 of the Children's Act, Section 98 CPA and Order 52 CPR.

It seeks orders that:

- (1) LYN SIMON the applicant be appointed Legal Guardian of KISULE GRACE – an orphan aged 4.6 years.
- (2) The child be allowed to stay and or continue staying with the applicant.
- (3) The applicant be allowed to process the Uganda Passport for the child.

The facts of this application are that KISULE GRACE is an orphan born to BABINE MONICA (RIP) who died soon after giving birth. The father is not known. Since childhood, the infant has been under the care of ISAMBI BEATRICE and her husband who has unfortunately passed away.

However both Isambi and her husband had consented to assistance by the applicant. The infant is now in SOUL FOUNDATION SCHOOL in which the applicant has an interest as a co-ordinator. NSEKO JOYCE and MUSIKA ANNET close relatives of the infant have also indicated that the applicant should indeed be looked after by the applicant.

The probation Officer OPIO OUMA made a report which is on record and was also examined by court. He has stated that he has been involved in securing assistance for the infant. He established that the infant is disadvantaged as his relatives are not financially stable to cater for his basic needs. However the child is healthy.

He has interacted with the applicant who has been assisting the infant since July 2011. She is stable and has a steady income and is capable of catering for the child.

He has also interacted with the relatives of the infant who have consented to the Legal Guardianship and eventual adoption.

The court also examined the applicant whose credentials are that she is a sales person who has a Bachelor of Science Degree and works with SOUL FOUNDATION as a Coordinator with offices in Bujagali-Jinja District. She obtained a Foster Order granted by the Magistrate's Court Jinja on 12/4/2013. She is in possession of copies of recommendations and checks on criminal records issued by the Probation and Welfare Officer in her home state of Colorado USA, as well as Tax returns. The record shows that she had a court case in 1996 of assault whereby she was placed on probation and later discharged. She has no child of her own.

I have considered all this back ground information and find that:

- (1) The applicant is a fit and proper person who has shown an interest in the infant, and has the means to cater for his needs. She is aged 42 while the infant is about 5 years an age difference of about 37 years.

- (2) The infant is disadvantaged and has no steady or capable relatives who can ensure his continued maintenance, care and education.

The current law in cases of this nature is to the effect that the welfare of the child is of paramount importance and consideration.

Article 4 of the African Charter of the Rights and Welfare of a Child, and Article 3 of the United Nations Convention on the Rights of the Child are to that effect.

Section 3 (1) (b) and the First schedule to the Children's Act provides that a decision to make the order required should be in the best interests of the said child.

The welfare of the child includes physical, emotional and educational needs of the child.

I find that this is a proper case where the application should be considered in the affirmative.

It is accordingly allowed and the applicant is appointed Legal Guardian of KISULE GRACE and is allowed to travel with him to the USA when the need arises.

The applicant will be required to:

- Keep the High Court of Uganda at Jinja informed of the progress of the minor through half yearly reports to the Registrar High Court at Jinja.

This order is to be registered with the following:

- The Uganda Registration Service Bureau, Ministry of Justice and Constitutional Affairs.
- Consular Department, Ministry of Foreign Affairs, Kampala Uganda.
- The American Embassy in Uganda.
- The Uganda Embassy in the USA.

- The United States Citizenship and Immigration Services concerning International Adoption.

Costs of the application to be met by the applicant.

Namundi Godfrey

JUDGE

14/11/2013

14/11/2013:

Applicant present

Muzuusa for applicant

COURT: Ruling read in court.

Namundi Godfrey

JUDGE

14/11/2013