

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

**ADOPTION CAUSE NO. 039 OF 2013**

**IN THE MATTER OF JUSTINE WAISWA BAKAMA AND NAUMA  
CATHERINE**

**AND**

**IN THE MATTER OF AN APPLICATION BY BAKAMA  
BAKAMANUME**

**BEFORE: THE HON. MR. JUSTICE GODFREY NAMUNDI**

**RULING**

This is an application for Adoption brought under Section 44 of the Children Act, sections 14, 33 and 399 of the Judicature Act and section 98 of the Civil Procedure Act.

It is filed by Notice of Motion as required by Order 52 rr.1 and 3 of the Civil Procedure Rules.

The orders sought are in respect of Justine WaiswaBakama aged 8 years and Nauma Catherine aged 10 years.

The Applicant BakamaBakamanume who is said to be a paternal uncle to the two minors filed an affidavit in support of the application.

The two minors are the biological children of Bakama Moses who passed away on 4/01/2010 (according to the Death Certificate issued on 11/02/2013). Their mother is Kantono Judith, a Grade III Teacher at Baganzi Primary School.

According to the pleadings and submissions by Counsel for the Applicant, the children have been under the care of the Applicant since 2004 when their father fell ill and subsequently died in 2011.

The Applicant formalized this when he obtained a Care Order from the Family and Children Court of Kamuli on 18<sup>th</sup> January 2010.

Further that the Applicant has obtained the consent of the remaining parent in respect of this application.

The Applicant is a Ugandan resident in the USA and obtained citizenship thereof in June 1995. He has his own biological children who are now grown up aged 18 and 21 years respectively. He obtained a recommendation from the American Commission confirming his care for the adoptive children. He suffers from no contagious diseases.

In support of all the above claims the Applicant has supporting documents which have been filed.

At the hearing of this application, this Court required the Applicant to furnish further evidence to support his claims namely:

- Death Certificate of the father of the adoptive children
- A recommendation by USA authorities in respect of the existence of any criminal records in that country.
- Financial and tax returns from the USA Government.
- Confirmation and evidence that he is employed and is capable of maintaining the adoptive children.
- A consent by the Applicant's wife.

Save for the said consent, the Applicant was able to produce the required necessary evidence also filed on Court record. He filed an affidavit in which he states that he is separated from his wife who lives in a different State in the USA and that the separation is likely to be permanent. It was submitted the spousal consent be dispensed with under Section 44 (2) of the Children Act.

I have considered the application and the submissions for the Applicant by his Counsel, Ms. Naigaga. The Applicant is a mature person, looks responsible and is highly qualified. I am satisfied that he has the capacity and means to maintain the children. He also has the advantage of being their biological uncle (Brother to their father). At his age of 61 years he is over 40 years older than the said children.

I am satisfied that he has fulfilled the requirements of the Children's Act.

In any case, the fundamental consideration in matters of this nature is the best interests of the children.

Adopting of these children by the Applicant will expose them to better educational opportunities and care as compared to their mother whose income is meagre to say the least, as a teacher in a Primary School. In any case she is not opposed to the adoption.

I have taken into consideration the requirement that the children should be under the Applicant's continuous care in Uganda for 36 months before this application can be granted. It has been submitted that due to the nature of the Applicant's job, he cannot reside in Uganda for that period.

I have taken into account the fact that he has looked after these children for a long time and has shown capacity to bring them up. I accordingly waive the said requirement. I also waive the requirement for the spousal consent as prayed for.

The end result is that the application is allowed as prayed for and Order for the adoption of Justine WaiswaBakama and Nauma Catherine is to issue to the Applicant.

Costs in the cause.

**Godfrey Namundi**

**JUDGE**

**08/05/14**