

IN THE HIGH COURT OF UGANDA AT SOROTI

ADOPTION CAUSE NO. 001 OF 2013

IN THE MATTER OF THE CHILDREN ACT CAP 59

AND

**IN THE MATTER OF THE APPLICATION FOR ADOPTION BY
STUART PHILIP HALL AND MELISSA HALL**

AND

**IN THE MATTER OF THE ADOPTION OF ESUNGET BENON OF
ONGINO, KUMI DISTRICT AND NAMBOZO MARIAM OF RWEBA
'B', KAGWESE WARD, PALLISA TOWN COUNCIL, PALLISA
DISTRICT**

(INFANTS)

BEFORE : HON. LADY JUSTICE H. WOLAYO

RULING

In a petition filed by Ms. Madibo-Mafabi Advocates, the petitioners seek adoption orders for two infants, Esunget Benon and Nambozo Mariam both of whom were present at the hearing of the application.

The main grounds are contained in affidavits in support of Stuart Phillip Hall and Melissa Hall.

The petition is accompanied by among other documents, a marriage certificate of the two petitioners, a character recommendation by Mr. Kasey Lloyd dated 26th June 2012, foster care placement orders for the two infants issued by the Grade one magistrate Kumi on 11th January 2011, a report by the Senior Probation Officer Kumi approving the couple as caring and loving potential parents to the two children, consents to adoption by Amiro Agnes for Esungat Benon and Nabugwibi Jetu for Nambozo Mariam.

Section 46 of the Children Act imposes conditions precedent to inter country adoptions. Principally, it is granted in exceptional circumstances. Secondly, the petitioners should have stayed in Uganda for at least three years; have fostered the child for thirty six months under supervision of the social welfare officer, do not have a criminal record, have a recommendation concerning suitability to adopt, have satisfied the court that the country of origin will respect and recognise the adoption order.

Other conditions are contained in section 48 . The court must be satisfied that consent of everyone required to give the consent to adopt is not dispensed with and that the order if made will be for the welfare of the child.

With regard to exceptional circumstances , a case has been made out by the following facts.

The two children were fostered for more than three years by a loving and caring couple as demonstrated by the social welfare officer's report.

The couple was appointed legal guardians to the children on 19th May 2011 by the High Court at Soroti.

Amiro Agnes mother of Esungat Benon admits she is HIV positive, has no source of income to care for the child and his father David Ongodia has neglected the child. Her letter dated 14th April, 2011 is relevant. The LC 1 Chairman Ongino Ongino sub-county dated 14th April 2011 is evidence that Amiro Agnes is unable to support the child.

Nambozo Mariam was under the care of her maternal grandmother Modesta Nambozo who passed on.

The other conditions under section 46 have all been complied with, in particular the 36 months required for foster care prior to grant.

I am also satisfied that the petitioners do not have a criminal record . Annexure F does not reveal any offence with a moral turpitude or that the 1st petitioner served a term of imprisonment.

I am satisfied with the written consents to adopt by Amiro Agnes with respect to Esungat Benon and Nabugwigi Jetu with respect to Nambozo Mariam.

Having regard to the above and to the fact that the two petitioners are gainfully employed by Pentecostal Assemblies of God (annex. B), being satisfied that the petitioners have fulfilled all requirements under the Children Act, and being satisfied that the best interests of the two children will be served by granting the prayers, i make the following orders,

1. The petitioners are granted an adoption order for Esungat Benon and Nambozo Mariam
2. The petitioners are under a legal obligation to register the adoption order with the Registrar of Births and Deaths in Kampala.
3. The petitioners to avail to the Deputy Registrar, Soroti High Court Circuit proof of compliance with order (2) above within two weeks from the date of issuance of this grant.
4. No order as to costs.

DATED AT SOROTI THIS.....04.....DAY OF.....09.....2014.

HON. LADY JUSTICE H. WOLAYO

