

THE REPUBLIC OF UGANDA

IN THE HIGH COURT OF UGANDA AT SOROTI

FAMILY CAUSE 08 OF 2015

IN THE MATTER OF HELEN ALEPERAN INFANT

AND

IN THE MATTER OF AN APPLICATION FOR

LEGAL GUARDIANSHIP ORDER BY

COLIN RYAN ROSSER AND

VERONICA MARY ROSSERAPPLICANTS

BEFORE HON. LADY JUSTICE H. WOLAYO

RULING

This is an application brought under article 139 (1) of the Constitution , sections 14, 33, and 39 of the Judicature Act Cap 13; section 98 of the Civil procedure Act order 52 rules 1 and 3 of the Civil Procedure Rules.

The applicants seeks an order for appointment as legal guardians of the child Helen Aleper

The application is supported with affidavits of the two applicants ; Florence Asero former officer in charge of Serere Child and family Protection Unit Uganda Police; Amos Oluka Assistant Probation and Social Welfare Officer Soroti; and Simon Orugon a social welfare worker with AMECET.

Applicants were represented by Mr. George Mugume of Mugume& Nyakimwe Advocates .

In attendance were the applicants, and Probation and Social Welfare officers Soroti ; Florence Asero formerly officer in charge Child and Family protection Unit; and Mr. Simon Orugen, Social worker with AMECET Youth with a Mission Children Home.

Counsel for the applicant filed written submissions and authorities that I have carefully considered.

The grounds for allowing an application for guardianship is that it is for the welfare of the child. In determining the welfare of the child, the court is enjoined to have regard to the principles set out in section 3 of the 1st schedule to the Children Act.

Of relevance to this application are:

The child's physical, emotional, and educational needs;

The likely effects of any changes in the child's environment,

The child's age and background,

Any harm the child has suffered or is at risk of suffering,

The capacity of the child's parents or others involved in his upbringing, in meeting the child's needs.

I have examined the affidavits and documents accompanying this application.

According to Simon Orugon, a Social Worker with AMECET Children Home, the infant Helen Aleper born on 8th August 2014, was delivered to the Home on 18th August 2014 by Florence Asero of the Child and Family Protection Unit while in poor health.

In her affidavit, Florence Asero affirms that she rescued the child from her mentally ill mother Tereza Alupo and alcoholic father Fabian Okware and took the child to Amecet Children Home on 18th August 2014. She also confirms that an advert was placed in the Etop newspaper of 2-8 October 2014 calling upon relatives of the child to come to her rescue with no success. There is medical evidence that Tereza Alupo is mentally ill while Fabian Okware is an alcoholic.

The Probation and Social Welfare Services Officer, Soroti, Mr. Oteko Ekalam in his report dated 10th July 2015, confirms the above narrative and recommends that the infant is in need of care and protection.

Under these circumstances where the child's parents are not suitable on account of mental instability and the danger this poses to the child, it is fair that she be placed under care and protection of a willing and responsible family.

With regards the circumstances of the applicants, i am satisfied that they are responsible residents of Soroti where the 1st applicant Colin Ryan Rosser is employed with Global Care Uganda as a missionary field worker while his wife the second applicant Veronica Mary Rosser is a stay at home mother/ legal guardian to Aleper's half brother. The couple has been resident in Soroti since 2012 according to an invitation letter dated 1.9.2012 from Soroti Branch manager Global Care Uganda.

The applicants have demonstrated their financial security and their potential to accord the infant emotional , physical and educational needs in future.

All documents availed to court by the applicants concerning their financial status, marital status, suitability as adoptive parents, criminal clearance, medical clearance, and employment are duly authenticated.

For the above reasons and as the Probation and Social Welfare officer Soroti has certified that they are suitable persons to be appointed legal guardians, their application is allowed.

For the reasons given above, i am convinced that it is for the welfare of the child that this application be allowed . I hereby make the following orders:

1. COLIN RYAN ROSSER and VERONICA MARY ROSSER

a) are appointed legal guardians to **HELEN ALEPER.**

b) are to accord the child all the rights of the child under the law.

2. Should the legal guardians need to travel with the child outside the country, they will inform the Deputy registrar of the High Court Soroti and avail the address where the family will be staying and directed to obtain a Ugandan passport for the child in her names.

3. The two legal guardians are directed to register this order with the Registrar of Births and Deaths, Kampala.

DATED AT SOROTI THIS 9TH DAY OF NOVEMBER 2015.

HON. LADY JUSTICE H. WOLAYO