

THE REPUBLIC OF UGANDA
IN THE HIGH COURT OF UGANDA AT KAMPALA -
MISCELLANEOUS APPLICATION NO 78 OF 1991
IN THE MATTER OF SECTION 9(a) OF THE JUDICATURE ACT NO.11 OF 1967
AND
IN THE MATTER OF AN APPLICATION OF JANE NAMUKASA AN INFANT
AND
IN THE MATTER OF AN APPLICATION BY MR & MRS STEFANO &
SILVIA LAMON TO BE APPOINTED LEGAL GUARDIANS.

BEFORE: The Honourable Mrs. Ag. Justice M. Kireju

RULING

This application is made under section 9(a) of the Judicature Act 1967 by notice of motion supported by two affidavits and seeks guardianship order for an infant aged 2 years, named Jane Namukasa. The applicants are Stefano lamon and Silvia lamon a married couple from Italy. The first affidavit was deponed by Mr. & Mrs. Lamon, the applicants and the second one is by Florence Nansubuga who is a paternal grand aunt to Jane Namukasa.

When this application came before me I requested Mr. Ssendege counsel for the applicants to get a letter in respect of the infant from the daughters of Charity where the infant is being cared for. I also requested for a recommendation from the present employer of the applicants. This information was received and is on record.

From the affidavits and the letter from daughters of charity of P.O box 6885 Kampala dated 4/12/9, I gathered the following information about Jane Namukasa. She was born on 12/11/88 at Namirembe Hospital to Florence Nansubuga (she has the same names as the grand aunt of the infant) who died on 2/4/89. After the death of Jane Namukasa's mother the Daughters of Charity took over the care of the infant. The grand aunt has been in custody of Daughters of Charity for almost all her life and also the late Florence was also under the care of Daughters of Charity, The

late Florence never informed anybody as to who was the father of Jane Namukasa. That research has revealed that the closest relative of Jane Namukasa is the said grand aunt who is a destitute who can neither look after herself nor her granddaughter and she is in support of this application of Mr. & Mrs. Lamon.

The information we have on the applicants is that they are Italians &, they reside at Matany Hospital Moroto.

Lamon is a doctor in the said hospital and Silvia lamon is a teacher at Matany Primary School. Since their marriage on 27/6/87 they have not had, any children. From the letter of reference dated 4/12/91 from Dr. Putoto Giovanni Medical Coordinator, Uganda Italy Health Co-operation Programme C.U.A.N.N, the couples have sufficient income to provide for the welfare education and upbringing of the child. And that their intentions are benevolent and that they will take the place of the child's parents. The letter from Daughters of Charity also stated that from the interviews Sister Rose Muyinza had with the applicants, they were satisfied that Mr. & Mrs. Lamon have good intentions for the child they recommend the couple to be appointed legal guardians of Jane Namukasa.

Mr. Ssendege submitted that the applicant appreciate that once they are appointed as guardians they must show love, affection and care to the infant child like her parents. They are also willing to allow the child to visit her grand aunt periodically and that once orders are made they are registered in Italy for better implementation.

It is now trite law that the guiding principle in cases of guardianship is the welfare of the child. Whatever decision is taken by the court it must be in the interest of the child. Guardianship has been granted to applicants who are foreigners after the court has satisfied itself that it was for the benefit of the child. Some of these cases are; 1) Misc. A. No.13/91 Faith Aroha Tsubira (Infant Molly Samuels. (II) Misc. App, No. 3/89Nabukalu Infant & Mr. & Mrs. Van Xanten. (iii) Misc. pp, No. 59 of 1989 Grace Tumwebaze Namara & Mr. & Mrs. Guest Gyesen. After the perusal of the affidavits and references in respect of the applicants and hearing the submission by Mr. Ssendege, I am convinced that the child would be much better off under the care of the applicants, who are willing to give her parental love and care, give her a family life

rather than living in a children's home. The only known relative is in support of this application as she herself is unable to take care the child.

I am satisfied that it in the interest and for the welfare of the infant that this court doth order that the applicants Stefano and Silvia Lamon be and are hereby appointed guardians of the infant Jane Namukasa and further order as following: -

(1) A report on the progress of child should be submitted every six months to the Probation/welfare Office in Kampala.

(2) The same report as in (1) above should be sent to Daughters of charity for the information of the grandaunt of the child Florence Nansubuga.

(3) The Probation/welfare office in Kampala should inform the court in case he does not get the said reports.

4) The child should be brought to visit her grand aunt expense once every 2 years until the after age of 12 years and thereafter once every 3years.

I further direct the Registrar to send a copy this order together with the addresses of the Guardians both in Uganda and Italy to;

(a) Ministry of Foreign Affairs Kampala

(b) Probation and welfare Officer Kampala.

I so direct,

ruling delivered in the presence

Mr. Ssendege for the Applicants.

Mr. Ddungu - Court Clerk.

M. KIREJU

Ag. JUDGE.

16/12/91.