

THE REPUBLIC OF UGANDA
IN THE HIGH COURT OF UGANDA AT KAMPALA
FAMILY CAUSE NO 061 OF 2005

[In The Matter Of Salem Mukiibi and Ashaf Ssemakula (Minors)

And

In The Matter Of an Application by Hoffman Edward and Olivia Nakawungu Hoffman, Brother-
Law and Sister, Respectively].

21st October 2005

BEFORE: HON. MR. JUSTICE ELDAD MWANGUSYA:

RULINGS:

This is an application by a notice of motion for guardianship and custody of SALEM MUKIIBI and ASHAF SEMAKULA both described as minors by HOFFMAN EDWARD and OLIVIA NAKAWUNGU HOFFMAN described as their brother in law and sister respectively. The applicants are citizens of the United State of America.

The application is supported by the affidavits of both applicants that of Imelda Namutebi, mother of both minors and a report of the probation and welfare officer, Mwanga II Road Kampala.

From my perusal of this application, I am satisfied about the suitability of the applicants to provide for the two minors' welfare in accordance with the children act in which the welfare principle is provided for in section 3 and the first schedule to the act. I will also take into account the probation and welfare officer's report in which he states "that the application by Mr. and Mrs. Edward Hoffman for legal guardianship of the children, Mulubi Salem and Semekula Asafu is appropriate. The children are now going to get proper care maintainance and guidance, which they could not get from their parents. There is hope that their future shall be bright in case the prospective legal guardians fully take over the responsibility for these two children." The probation officer came to this conclusion after taking into account the views of the children

themselves who expressed their desire to stay with the second applicant who is their sister. Their mother has no objection to the arrangement either (see her affidavit attached to the application). In the circumstances, I will grant this application and appoint HOFFMAN EDWARD and OLINA NAKAWUNGU HOFFMAN legal guardians of SALEM MUKUBI and ASHAF SEMAKULA both minors. The guardians shall have legal custody of the infants and be at liberty to take the infants to any part of Uganda or outside Uganda, so long as the infants remain in their minority or until further orders issued by this court.

Eldad Mwangusya

JUDGE

21/10/2005

RECORD OF PROCEEDINGS:

17/10/2005

Ms. Nakacwa Florence for the applicants both of whom are in courts.

Both infants, subject of the application are in court.

Ms. Nakibuka Mariam court clerk.

Mr. Nakacwa:

The applicants are husband and this Hon. Court for orders of guardianship and custody of the two minors. This application is brought under S.14 of Judicature Act and S.3,4 and 5 and 47 of children's Act and S.98 of CPA.

This application is further supported by affidavits of both applicants and that of Namutebi Imelda mother of the two minors and the second applicant.

There is a probation report of Mr. Sozi Elisha probation officer at Mwangi II Court.

The second applicant is a biological sister to the minors. She has lived with them since they were born till March 2003 when she travelled to USA to live with her husband (the 1st applicant).

The applicants got married in Uganda on 20/6/2001. Annexure "A" is a copy of their marriage certificate and again wedded at St. Steven Kisubi Church of Uganda as per Annexure "B".

The applicants lived as a couple in Uganda and with the children. They lived in Buziga and Kansanga till March 2003 when they left for the USA. The 2nd applicant visited the minors in November 2004 up to January 2005. They have been living with the children since August 2005 till now.

The applicants have been paying school fees for the children and paying for their up keeping but were not satisfied with the care given by their biological mother who is a single mother and unemployed. The two minors were born outside Wedlock to Imelda Namutebi and one, Michael Mutyaba who abandoned them in 2000.

The 2nd applicant is from another relationship. His father was called Isail Mayinja. The applicants have been helping to bring up the infants. It is their desire to be appointed guardians and custodians to look after them in the USA.

The biological mother has given her consent to the guardianship and she has stated in her affidavit (see paragraph 10). She has not seen the father of the children since he deserted them in 2000.

The applicants have fostered the children and the children are fond of them. The 1st applicant is an American citizen born on 15/3/48. He is a former marine sergeant. He earns \$3,500 US dollars as stated in his affidavit. Annexures "Cr" and 'I' relate to his citizenship and identity card.

The applicants have already shown parental responsibility. They understand their responsibility as guardians.

The second applicant is a permanent resident of USA as per annexure "A". She is Ugandan citizen as evidence in Annexure "H" of her affidavit.

The children who are subject of this application are Ugandans (see birth certificates attached).

If application is granted it will be for the welfare of children who have a bright future in the hands of the applicants.

The 2nd applicant is employed as a chef and she earns \$25,000 per annum after tax. The applicants desire to travel with children and live with them in the USA.

We pray that court disposes with consent of biological father S.47 of children act as mother has consented.

I pray for grant.

Court:

Ruling on 20/10/2005 at 2.00 p.m.

Eldad Mwangusya

JUDGE

17/10/2005

Ms. Florence Nakacwa for the applicants both of whom are in court.

Ms. Nakibuka court clerk.

Court:

Ruling signed and read in open court.

Eldad Mwangusya

JUDGE

21/10/2005