

IN THE HIGH COURT OF THE UNITED REPUBLIC OF TANZANIA

ARUSHA SUB-REGISTRY

AT ARUSHA

MISCELLANEOUS CIVIL CAUSE NO. 19 OF 2022

IN THE MATTER OF THE LAW OF THE CHILD ACT, NO. 21 OF 2009

AND

IN THE MATTER OF LUCK CHURCH, AN INFANT

AND

**IN THE MATTER OF APPLICATION FOR AN ADOPTION ORDER BY ESTHER
EDWARD JOHN OF P.O. BOX 16795 ARUSHA-TANZANIA**

RULING

29TH March & 6TH April 2023

KAMUZORA, J.

This Miscellaneous Civil Cause was brought under the Law of the Child Act No. 21 of 2009, Cap. 13 RE 2019. The Petitioner Esther Edward John is praying for adoption order to adopt Luck Church, an infant aged three years old, born on 18th September 2019.

The record and submissions from the Petitioner, the counsel for the Petitioner and Social Welfare Officer reveals that the Petitioner is a Tanzanian woman aged 44 years old. She is residing at Kisongo herein Arusha and works as Administrative Assistant at Contractors Registration Board. According to her averment, she loves children but she was not

blessed with any thus, thought that she can still care for other children. While living with her husband they planned to adopt a child thus, started visiting the Social Welfare Officer. But before they could fulfil their plan, her husband passed away. As she intended to fulfil her desire to adopt a child, she maintained the plan and continued visiting the Social Welfare Officer until when they identified the current infant for her. The Petitioner claimed she has support from her parents and other family members. She also knows that after adopting the child, he will become first heir to her properties and will have all rights to education and all necessary needs.

The counsel for the Petitioner Mr. Godfrey Mushi addressed this court on Petitioner's records. He submitted that the Petitioner has no criminal records as shown in the certificate of good character issued by the police force. That, she has been living with the child for more than a year and never adopted any other child before. That, if adoption order is issued, the Petitioner prays for an order of change of name of the child from Luck Church to Blessing Edward John and any other order this court may find fit to grant.

The Social Welfare Officer Ms. Beatrice Tengi along with her social inquiry report submitted that the office of District Executive Director, Arusha District through the department of Social Welfare Officer know the

Petitioner since 2020 when she and her husband applied for foster care. That, they visited her at her residence and by that time she was living with her husband who unfortunately passed away after a short period of time. That, after her husband passed away the Petitioner Ester decided to pursue the adoption in her own. That, the Social Welfare Officer was satisfied with the Ester's residence to be issued with foster care permit. That, they went to the children care centre, **Craddo of Love** at Usariver where they identified the child who has no any relative. They wrote to the Permanent Secretary through the Commissioner of Social Welfare and Ester was issued with foster care permit. The said permit is attached to Social Welfare Officer report. That, after sometimes, they filled in the form F5 indicating that the Petitioner performed well as foster parent and sent the same to the Commissioner for Social Welfare. That, Ester was visited by the Social Welfare Officer once a month for the period of six months and was satisfied that she is of good character and she has no criminal records. The police report on her criminal records is also attached with Social Welfare Officer report. That, after six months of fostering the child, Ester applied for adoption permit. That, they requested the adoption permit from the Permanent Secretary through the office of the Commissioner for Social Welfare. That, the permit was issued and she was appointed to supervise this adoption petition.

The Social Welfare Officer is of the opinion that Petitioner is a fit person to adopt the child and can take good care of the child. The reasons be concluding are that, the Petitioner is a public servant with source of income thus could pay for the child needs. That, the child has no any identified relative until now thus, for the welfare of the child it is advised that the child be cared by the family. She added that since the Petitioner was not blessed with any child, it is a good opportunity for her to be a parent to this child. That, she started living with the child since September 2021 and for the period she has lived with the child, they have developed bond and they can live together. This helped the child to experience mother's love as opposed to when he was living and will remain in the care at the children centre.

I have considered the petition, the averment by the Petitioner and submissions by the counsel for the Petitioner and the Social Welfare Officer. I have also considered the social inquiry report submitted by the Social Welfare Officer. I am satisfied that the Petitioner has complied to the requirement under the law. It is in record that, the child's parents are unknown thus, the requirement for consent from the parents as per the provision of section 59 (1)(a) of the Child Act is dispensed with. The detailed social inquiry report that was prepared and submitted in court by

the Social Welfare Officer support the petition and comply the requirement of section 59 (2) of the Child Act No. 21 of 2009, Cap 13 RE 2019.

As well submitted by the counsel for the Petitioner and the Social Welfare Officer, the child has been continuously in the care and custody of the Petitioner for more than one year thus complying to the provision of section 59 (5) of the Child Act. Therefore, pursuant to the provision of section 59 (4) of the Child Act I make the following orders;

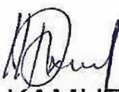
- a) The Petitioner is allowed to adopt a child who is a male aged approximately three years old, being born on 18th September 2019.
- b) The child will be named Blessing Edward John before and after adoption.
- c) The name of the adoptive parent is Esther Edward John who is a Tanzanian by birth and citizenship working as Administrative Assistant at Contractors Registration Board here in Tanzania and residing at Kisongo area within Arusha District in Arusha Region.
- d) This 6th Day of April 2023, shall be the date for the adoption order.

In addition, and pursuant to the provision of section 64 of the Child Act, the Petitioner who is now the adopting parent is informed of her duties to ensure the best interest of the child are met. The adoptive parent of the child will assume the parental rights, duties, obligations and

liabilities of the child with respect of custody, maintenance and education as if the child was born to the adoptive parent. The petition is therefore granted and ordered accordingly.

DATED at **ARUSHA** this 6th Day of April 2023




D.C. KAMUZORA
JUDGE