

**IN THE HIGH COURT OF UNITED REPUBLIC OF TANZANIA**

**[ARUSHA DISTRICT REGISTRY]**

**AT ARUSHA**

**MISC. CIVIL CAUSE NO. 12 OF 2023**

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

**AND**

**IN THE MATTER OF "J" CHILD OF P.O.BOX 10896**

**ARUSHA TANZANIA**

**AND**

**IN THE MATTER OF APPLICATION FOR AN ADOPTION ORDER**

**BY "M.S.S" OF P.O.BOX 10896 ARUSHA, TANZANIA**


**RULING**

5/09/2023 & 19/09/2023

**MWASEBA, J.**

The petitioner, **M.S.S** (Name withheld to conceal her identity) has filed this application before this court seeking for the following orders:

- a) An order of adoption of the infant **"J"** (Name not disclosed) by your petitioner be made with all the necessary direction in pursuance of the Adoption of Children Regulation



b) An order that the infant "**J**" shall now be known by name of **G.J.S**

(Name withheld)

c) That the adoption order be served upon the Registrar General of Births.

d) Costs of this petition be provided for as above-mentioned petitioner

e) Such further or other orders as the nature of the case may require.

Before this court, the petitioner was represented by Ms. Upendo J. Msuya learned counsel. On the other side, Ms. Nivoneia Kikaho, duly appointed *guardian ad litem* appeared in court to protect the interest of the child. The court ordered her to prepare a social investigation report as per **Regulation 11 (1) of the Adoption of Children Regulation** and the same was submitted in court timely.

Submitting in support of the petition, Ms. Upendo learned counsel stated that the petitioner is a civil servant born in 1972, having a permanent residence in Arusha. Further to that, she is neither married nor blessed with any issue. She averred that the adoptive child is male by sex born on 5/3/2019. Currently, he is in the custody of the petitioner and she has been taking care of him since when she took him from Samaritan Village in Arusha.



Ms. Upendo submitted further that the adoptive child was abandoned in Arusha having approximated at 3 days. Then he was taken to Samaritan village. The whereabouts of his parents is not known to date. She therefore prays for this honourable court to grant their petition as prayed.

Replying to the submission in chief, Ms. Kikaho, *Guardian ad litem*, supported the application. She averred that the petitioner complied with the adoption procedures as she has fostered a child for more than six months as since 2020 the child is in her custody. During the fosterage they conducted investigation and found that the petitioner was proceeding well with the child as she was able to provide basic needs of the child. So, they suggested to the commissioner to allow her to adopt the child. Hence the Commissioner gave his consent for the petitioner to adopt the child. Ms. Kikaho winded up that according to their investigation, they find that the adoption order in this case is on the best interest of the child.

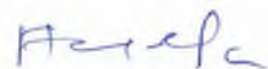
Having heard the submission from the learned counsel for the petitioner and the *guardian ad litem*, and going through the pleadings together with a detailed social investigation report, the pertinent issue that calls for my determination is whether this application is grounded on the best interest of the child.



**Regulation 3 of the Adoption of the Child Regulation** stipulates that in making any decision regarding the adoption of a child, the best interests of the child shall be the primary consideration.

It is pleaded and submitted by Ms. Upendo that the child was abandoned and later was taken to Samaritan village. The whereabouts of his parents is not known. Further to that, the child has been in the custody of the petitioner as a foster parent since 2020. Ms. Kikaho, *guardian ad litem* submitted in court that they have been investigating on the welfare of the child while under fosterage and found that the petitioner is suitable for adopting the child. I have gone through the social investigation report, it clearly shows that all the fosterage procedures were observed to as per **Section 32(1) (2), (3), (4), (5) (6) and Part VI of the Law of the Child Act** together with the **Foster Care Placement Regulations, 2012**. The social welfare officers had ample time to ascertain how best the petitioner can protect the rights, welfare/interest of the child.

In view of the investigation conducted towards the best interest of the child, the Commissioner for Social Welfare gave a consent for an adoption order to be granted. More to that, the *guardian ad litem* was of the opinion that granting this application is on the best interest of the child. Keeping in mind that the child was abandoned and kept at Samaritan Village which



is an orphanage institution, it is my considered view that giving him a family through adoption will be the best interest to the child.

In view of the foregoing consideration, I find this petition to be in the best interest of the child and I proceed to grant it as prayed. The Social Welfare Officer shall undertake a monitoring visit to the home of the petitioner/ adoptive parent three months after this order as per **Regulation 16(1) of the Adoption of Children Regulations.**

Ordered accordingly.

**DATED** at **ARUSHA** this 19<sup>th</sup> day of September, 2023.



A handwritten signature in blue ink, appearing to read "N.R. Mwaseba", is written over the printed name.

**N.R. MWASEBA**

**JUDGE**