

SOUTH AFRICA / JUDGMENT

adoption of B (01/2015), In Re [2015] ZANWHC 55 (13 August 2015)

[2015] ZANWHC 55

COURT

North West High Court, Mafikeng

BEFORE

A A Landman

CASE / FILE NUMBER

01/2015

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IN

THE HIGH COURT OF SOUTH AFRICA

NORTH

WEST PROVINCIAL DIVISION, MAHIKENG

High Court Ref. No.: 01/2015

In

the matter between:

In
re the adoption of K. B.
Applicant
Date
of Judgment: 13 August 2015

JUDGMENT

Landman J:

Introduction

- [1] On 11 August 2015 a letter from Magistrate ML van Loggerenberg and the record of proceedings in the Children’s Court for the District of Ditobotla, sitting at Coligny, concerning the adoption of K. B. (‘the child’) were placed before me for “special review”.
- [2] I have interpreted the “special review” as a notification to this court to consider the facts with a view to deciding whether a Judge of the court, as upper guardian, should order appropriate action to be taken.

Adoption proceedings

- [3] An application was made by P. H. J. P. (Mr P.) to adopt the child who was born out of wedlock to R. M. B. and F. P. S. on [.....].

Subsequently Ms [.....] married Mr P. .

- [4] A report by a social worker and other documents were presented to Magistrate Van Loggerenberg. In due course he granted an order that the child be adopted by Mr Pretorius.

Magistrate’s Concerns

- [5] Subsequently information has come to the attention of the learned Magistrate that some of the facts in the social worker’s report and the explanation for the absence of the child’s mother at the adoption proceedings, are incorrect and, he believes, probably false.
- [6] The learned Magistrate states that he provided the social worker with an opportunity to rectify matters but nothing has come of it.
- [7] The learned Magistrate is of the view that there is a probability that the child’s mother may not have been aware of the adoption process.
- [8] The adoption of a child must be in the best interests of the child. If there is a probability that the information placed before a Children’s Court is false, misleading or incorrect, then the rights and the welfare and the best interest of the child may well be compromised. It is for this reason that I have thought it fit to appoint a curator-ad-litem for the child to investigate matters and report back to this court in terms of the directions set out in the order that I make.
- [9] The curator-ad-litem that I appoint is made after consultation with the Mafikeng Justice Centre.

Order

[10] I make the following order:

1. Mr S. M. is appointed as curator ad litem for the minor child K. B. born [.....] residing at [.....], North West Province in order to protect the best interest of the child and to avert any substantial injustice to the child.
2. The curator ad litem is directed to investigate the veracity of the information presented to Magistrate M L Van Loggerenberg in connection with the adoption of K. B..
3. The curator ad litem is directed to urgently interview especially Mrs R. M. P. and ascertain whether she was fully informed of the application by P. H. J. P. to adopt K. B. and whether she consented to the adoption.
4. The curator ad litem is directed to file a report with the Registrar of this court concerning:
 - a) Whether the information presented to Magistrate M L Van Loggerenberg was true and correct;
 - b) Whether Mrs R. M. P. consented to the adoption;
 - c) Whether it is in the best interest of the child that she be adopted by P. H. J. P.;
 - d) Whether any legal action needs to be taken in furtherance of the best interest of the child.
5. The curator ad litem shall file a report with the Registrar of this court on or before 30 September 2015 and if unable to do so the curator ad litem shall file a preliminary report.
6. The curator ad litem may seek further directions from the court, at any time should this be necessary.
7. The registrar is directed to forward a copy of this order to:
 - a) The Head of the Department of Social Welfare and the Development.
 - b) The family Advocate, Mahikeng.
 - c) Mr P. H. J. P..
 - d) Mrs R. M. P. .
 - e) Magistrate M L Van Loggerenberg.

A A Landman

Judge of the High Court

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Prepared on 13 October 2026 · Esheria