

TANZANIA / JUDGMENT

201660122 tzhc arusha

COURT
TZHCDECIDED
1 January 2016

Source: media.tanzlii.org · Research copy typeset by Esheria. Not court-issued or certified.

IN THE HIGH COURT OF THE UNITED REPUBLIC OF TANZANIA . (IN THE DISTRICT REGISTRY) AT ARUSHA MISC. CIVIL APPLICATION NO. 254 OF 2015 IN THE MATTER OF THE JUDICATURE AND APPLICATION OF LAWS ACT, [CAP. 358 R.E 2002] AND IN THE MATTER OF THE LAW OF THE CHILD ACT, 2009 [ACT NO.21 OF 2009] I AND IN THE MATTER OF THE CHILD AIDA GABRIELLA MARO FORTUNATUS ~ AND IN THE MATTER OF AN APPLICATION FOR LEGAL GUARDIANSHIP AND CUSTODY ORDERS BY ALICE MAI MARO - APPLICANT Date of last Order: 14/01/2016 Date of Ruling: 22/01/2016 I

RULING

MASSENGI, J. The Applicant ALICE MAI MARO, a natural mother of the child AIDA GABRIELLA MARO FORTUNATUS filed an application before this court made under the provisions of section 2 (1) of the Judicature and Applications of Laws Act, Cap. 358 R.E 2002, articles 4 (1) and 6 (3) (4) of the African Charter on the Rights and Welfare of the Child, 1990, articles 3 1 i

- (1) and 7 (1) (2) of the United Nations 'i Conventions on the Rights of the I Child, 1989, sections 4 (2), 6 (1), 7' (1), . 8 (1), 9 (1), 3 (b) and 37 (1) of the . Law of the Child Act, (Act No. 121 of 2009), sections 95 of the Civil I Procedure Code, Cap. 33 R.E 2002' and any other enabling provisions of the 'I I · law; applying for the following order; . I
1. That this Honourable Court: be pleased to appoint Alice Mai Maro, 1 i! mother of the child Aida Gabriella Maro Fortunatus to be legal guardian of the child with fun,, parental rights and responsibilities.
 2. That this Honourable Co~rt be pleased to appoint Alice Mai Maro, mother of the child to be! legal custodian of the child with full parental rights and responsibilities. I
 3. That this Honourable Court ~be pleased to grant legal custody of the child to the Applicant. ~ 11
 4. Any other orders this Honourable Court may deem fit and just to grant.
 5. Costs of this Application be met by the Applicant. I, Before this court, the Applicanti! appeared in person together with her · l Advocate, Mr. Mgoha learned counsel. 1: Arguing the application, Mr. iMgoha submitted that the Applicant is 31 I years old, a citizen of Tanzania, j'an employee of East African Community ,1 ,: Secretariat as Communication

Expert and she is the natural mother of the Child Aida Gabriella Maro, a female aged 9 years old. He further submitted that the child was born out of wedlock and the Applicant has been sole responsible for her daily needs which includes education, food and guidance. He contended that currently the child is in St. Mary's Mbezi Junior School and it is the Applicant who has been paying school fees. Thus the applicant is praying to be declared as a legal guardian and hence to be granted legal custody of the child Aida Gabriella Maro Fortunatus for the following reasons;

1. The child was born out of wedlock and hence the applicant is the sole parent.
 2. The applicant has been full responsible for the child needs for all those years without any assistance from anyone else.
 3. The applicant feels it is the best interest of the child this for court to grant her with legal custody and guardianship order in considering her present and future plans of the child. It was further stated that the Applicant has complied with the duty of maintaining and supporting the child as per section 8 (1) and section 6 (1) of the Law of the Child. He therefore contended that according to section 4
- (1) of the same law this court has to consider the best interest of the child and grant the application. The Applicant on her part had nothing to more to say. I have gone through the Applicant's affidavit and considered the submissions by her counsel. Substantially this application is brought as per section 37 (1) of the Law of the Child Act (supra) which give a right to a parent, guardian or relative who is caring for a child to apply to court for custody of the child. The Applicant is a natural mother of the child. The affidavit show that the Applicant has been sole responsible for the child's daily needs including education, food, shelter, clothing, medical care and guidance. The records show that the Child currently is schooling at St. Mary's Junior School and the Applicant is the one who has been paying for the school fees and all other necessities. According to section 8 (1) of the Law of the Child, it is the duty of the parent or any person having custody of the child to maintain the child, and in particular that duty gives the child the right to food, shelter, clothing, medical care, education and guidance the duties which this court has been satisfied that the Applicant has been providing to the child. Having considered the above, this court finds that for the best interest of the child (as the child was born out of wedlock) and it is the Applicant (natural mother of the child) who has been taking care of the child in all her necessities and maintaining her, then this court allow this application and grant the following orders;
1. This court appoints the Applicant ALICE MAI MARO, the mother of the child AIDA GABRIELLA MARO FORTUNATUS to be the legal guardian and custodian of the child AIDA GABRIELLA MARO FORTUNATUS with full parental rights and responsibilities.
 2. This court grants legal custody of the child AIDA GABRIELLA MARO FORTUNATUS to the Applicant ALICE MAI MARO.

-
3. The Applicant to bear costs of this application. Order accordingly. F.H. MASSENGI JUDGE 22/01/2016 4 Ruling delivered in Court this 22 nd day of January, 2016 in the presence of Mr. Mgoha and applicant in person. F.H. MASSENGI JUDGE 22/01/2016 5
-

Source & reproduction note

Judgment wording, source notices and original paragraph numbers are retained. Esheria supplies the layout and this PDF's page numbers; these are not the source pagination. This is a research copy, not an official or certified court document. Check quotations, citations and publication restrictions against the original source before relying on it.

ORIGINAL SOURCE	https://media.tanzlii.org/media/judgment/336792/ source_file/3fee1da27fc28ce1/201660122_tzhc_arusha.pdf
CASE PAGE	https://chat.esheria.ai/case-law/tanzania/alice-mai-mar-legalguardianship- tzhc-2016--6a3ea5283b1caa9129820cc3

Prepared on 14 October 2026 · Esheria