

UGANDA / JUDGMENT

In Re: Namuli Hadijah & Kaweesa Ibrahim (children) (Adoption Cause No. 68 of 2007) [2007] UGHC 41 (17 July 2007)

[2007] UGHC 41

COURT

High Court of Uganda

CASE / FILE NUMBER

Adoption Cause No. 68 of 2007

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N AT KAMPALA

\par \hich\af0\dbch\af36\loch\f0 ADOPTION CAUSE NO. 68 OF 2007

\par \hich\af0\dbch\af36\loch\f0 IN THE MATTER OF THE CHILDREN ACT CAP 59

\par \hich\af0\dbch\af36\loch\f0 AND

\par \hich\af0\dbch\af36\loch\f0 IN THE MATTER OF NAKIMULI HADIJA AND KAWEESA IBRAHIM

\par \hich\af0\dbch\af36\loch\f0 AND

\par \hich\af0\dbch\af36\loch\f0 IN THE MATTER OF AN ADOPTION PETITION BY SOPHIA NAMUTE\hich\af0\dbch\af36\loch\f0 BI THROUGH HER LAWFUL ATTORNEY ROBINAH KIGONGO

\par \hich\af0\dbch\af36\loch\f0 BEFORE: {\b\f0\fs24\ul\insrsid4474630\charrsid10966926 \hich\af0\dbch\af36\loch\f0 HON. LADY JUSTICE MARGARET C. OGULI OUMO

\par \hich\af0\dbch\af36\loch\f0 RULING

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\f0\fs24\insrsid4474630\charrsid10966926 \hich\af0\dbch\af36\loch\f0 for an order appointing Sophia Namutebi as the {\f0\fs24\insrsid13591675\charrsid10966926 \hich\af0\dbch\af36\loch\f0 adoptive parents}{\f0\fs24\insrsid3504455

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\hich\af0\dbch\af36\loch\f0 a}{\f0\fs24\insrsid3504455 \hich\af0\dbch\af36\loch\f0 h} {\f0\fs24\insrsid4474630\charrsid10966926 \hich\af0\dbch\af36\loch\f0 and Kaweesa Ib\hich\af0\dbch\af36\loch\f0 rahim.

\par \hich\af0\dbch\af36\loch\f0 The petition is supported by the report of the Probation and } {\f0\fs24\insrsid9309918\charrsid10966926 \hich\af0\dbch\af36\loch\f0 S} {\f0\fs24\insrsid4474630\charrsid10966926 \hich\af0\dbch\af36\loch\f0 ocial Welfare Officer}{

\f0\fs24\insrsid9309918\charrsid10966926 \hich\af0\dbch\af36\loch\f0 \hich\f0 , Wakiso District attached as Annexure '93\loch\f0 \hich\f0 D2'94}{\f0\fs24\insrsid411460\charrsid10966926 \hich\af0\dbch\af36\loch\f0 ,}

\f0\fs24\insrsid9309918\charrsid10966926 \hich\af0\dbch\af36\loch\f0 the affidavit of the }
\f0\fs24\insrsid6901477\charrsid10966926 \hich\af0\dbch\af36\loch\f0 Petitioner}
\f0\fs24\insrsid9309918\charrsid10966926 \hich\af0\dbch\af36\loch\f0

dated 23-05-2007}\f0\fs24\insrsid411460\charrsid10966926 \hich\af0\dbch\af36\loch\f0 and the
Power of Attorney from the petitioner to her cousin-Robinah Kig\hich\af0\dbch\af36\loch\f0 ongo
dated 3-05-07}\f0\fs24\insrsid4474630\charrsid10966926

\hich\af0\dbch\af36\loch\f0 .

\par \hich\af0\dbch\af36\loch\f0 At the hearing of the petition, the petitioner was represented by
Mrs. Victoria Katamba.

\par \hich\af0\dbch\af36\loch\f0 It i}\f0\fs24\insrsid13591675\charrsid10966926
\hich\af0\dbch\af36\loch\f0 s}\f0\fs24\insrsid4474630\charrsid10966926
\hich\af0\dbch\af36\loch\f0 }\f0\fs24\insrsid1274780\charrsid10966926
\hich\af0\dbch\af36\loch\f0 alleged

}\f0\fs24\insrsid4474630\charrsid10966926 \hich\af0\dbch\af36\loch\f0 in the petition th}
\f0\fs24\insrsid13591675\charrsid10966926 \hich\af0\dbch\af36\loch\f0 at both parents of the
children}\f0\fs24\insrsid9309918\charrsid10966926

\hich\af0\dbch\af36\loch\f0 }\f0\fs24\insrsid13591675\charrsid10966926
\hich\af0\dbch\af36\loch\f0 are dead}\f0\fs24\insrsid4474630\charrsid10966926
\hich\af0\dbch\af36\loch\f0 .}\f0\fs24\insrsid9309918\charrsid10966926
\hich\af0\dbch\af36\loch\f0

This is also reflected in the probation report.}

\f0\fs24\insrsid4474630\charrsid10966926

\par }\f0\fs24\insrsid9309918\charrsid10966926 \hich\af0\dbch\af36\loch\f0 The children }
\f0\fs24\insrsid6047000\charrsid10966926 \hich\af0\dbch\af36\loch\f0 are,}
\f0\fs24\insrsid9309918\charrsid10966926 \hich\af0\dbch\af36\loch\f0 Kaweesa

\hich\af0\dbch\af36\loch\f0 \hich\f0 Ibrahim 11 and Namakula Hadija 8. Their Birth Certificates
are attached as Annextures \93\loch\f0 \hich\f0 F\94\loch\f0 \hich\f0 and \93\loch\f0 \hich\f0 E\94}
\f0\fs24\insrsid6700351\charrsid10966926

\hich\af0\dbch\af36\loch\f0 respectively}\f0\fs24\insrsid9309918\charrsid10966926
\hich\af0\dbch\af36\loch\f0 .

\par }\f0\fs24\insrsid13787694\charrsid10966926 \hich\af0\dbch\af36\loch\f0 \hich\f0 Section 45
(1) of the Children Act provides that an Adoption order may be granted to a sole
applicant\85\loch\f0 where the applicant has attained the age

\hich\af0\dbch\af36\loch\f0 of 25 years and is atleast 21 years older than the child.(emphasis
mine)

\par \hich\af0\dbch\af36\loch\f0 The applicant is over 25 years of age.

\par \hich\af0\dbch\af36\loch\f0 S. 46 of the Children Act provides interalia that

\par \hich\af0\dbch\af36\loch\f0 (1)A person who is not a citizen of Uganda may in exceptional circumstances adopt a Uganda\hich\af0\dbch\af36\loch\f0 n child if she-

\par {\listtext\pard\plain\insrsid13787694\charrsid10966926 \hich\af0\dbch\af36\loch\f0 1.
\tab}}\pard \qj \fi-360\li720\ri0\sa200\sl360\slmult1\widctlpar\jclisttab\tx720\aspalpha\aspnum\faa
uto\ls4\adjustright\rin0\lin720\itap0\pararsid10966926 {

\f0\fs24\insrsid13787694\charrsid10966926 \hich\af0\dbch\af36\loch\f0 has stayed in Uganda for
atleast 3 years

\par {\listtext\pard\plain\insrsid13787694\charrsid10966926 \hich\af0\dbch\af36\loch\f0 2.
\tab}}\hich\af0\dbch\af36\loch\f0 has {\f0\fs24\insrsid10966926\charrsid10966926
\hich\af0\dbch\af36\loch\f0 fostered}{\f0\fs24\insrsid13787694\charrsid10966926

\hich\af0\dbch\af36\loch\f0 the child for atleast 36 months under the supervision of a probation
and social welfare officer.

\par {\listtext\pard\plain\insrsid13787694\charrsid10966926 \hich\af0\dbch\af36\loch\f0 3.
\tab}}\hich\af0\dbch\af36\loch\f0 does not have a criminal record.

\par {\listtext\pard\plain\insrsid13787694\charrsid10966926 \hich\af0\dbch\af36\loch\f0 4.
\tab}}\hich\af0\dbch\af36\loch\f0 has a recommendation from concerning his or her
suitabil\hich\af0\dbch\af36\loch\f0 ity to adopt from his or her country\hich\f0 \rquote
\loch\f0 s probation office or other competent authority.

\par {\listtext\pard\plain\insrsid13787694\charrsid10966926 \hich\af0\dbch\af36\loch\f0 5.
\tab}}\hich\af0\dbch\af36\loch\f0 has satisfied court that his or her country of origin will respect
and recognize the adoption order.

\par }}\pard \qj \li0\ri0\sa200\sl360\slmult1\widctlpar\aspalpha\aspnum\faaauto\adjustright\rin0\lin
0\itap0\pararsid10966926 {\f0\fs24\insrsid13787694\charrsid10966926

\par }}\f0\fs24\insrsid4474630\charrsid10966926 \hich\af0\dbch\af36\loch\f0 Counsel for the
petitioner submitted that the petitioner is an Ameri\hich\af0\dbch\af36\loch\f0 can citizen of
Ugandan origin. }}\f0\fs24\insrsid6047000\charrsid10966926

\hich\af0\dbch\af36\loch\f0 \hich\f0 A photo copy of her passport is attached as Annexure
\93\loch\f0 A\hich\f0 \rquote \loch\f0 . }}\f0\fs24\insrsid4864485\charrsid10966926

\par }}\f0\fs24\insrsid13119472\charrsid10966926 \hich\af0\dbch\af36\loch\f0 The applicant,
learned counsel, submitted that she need not foster the children for 36 months as she is a relative
of the children and need not apply for a foster C

\hich\af0\dbch\af36\loch\f0 are Order. That she has been assisting the children financially, by providing their basic needs and education.

\par

\par }{\f0\fs24\insrsid6047000\charrsid10966926 \hich\af0\dbch\af36\loch\f0 The Petitioner has}
{\f0\fs24\insrsid4474630\charrsid10966926 \hich\af0\dbch\af36\loch\f0 a certificate of c}
{\f0\fs24\insrsid1274780\charrsid10966926 \hich\af0\dbch\af36\loch\f0

riminal }{\f0\fs24\insrsid4474630\charrsid10966926 \hich\af0\dbch\af36\loch\f0 clearance from
the }{\f0\fs24\insrsid1274780\charrsid10966926 \hich\af0\dbch\af36\loch\f0 same state show}
{\f0\fs24\insrsid6047000\charrsid10966926 \hich\af0\dbch\af36\loch\f0

ing}{\f0\fs24\insrsid1274780\charrsid10966926 \hich\af0\dbch\af36\loch\f0 that she has no }
{\f0\fs24\insrsid4864485\charrsid10966926 \hich\af0\dbch\af36\loch\f0 criminal }
{\f0\fs24\insrsid1274780\charrsid10966926 \hich\af0\dbch\af36\loch\f0 record}{

\f0\fs24\insrsid4864485\charrsid10966926 \hich\af0\dbch\af36\loch\f0 .}
{\f0\fs24\insrsid1274780\charrsid10966926 \hich\af0\dbch\af36\loch\f0 }
{\f0\fs24\insrsid6047000\charrsid10966926 \hich\af0\dbch\af36\loch\f0 A copy of the Certificate i

\hich\af0\dbch\af36\loch\f0 s attached as Annexure }{\f0\fs24\insrsid4864485\charrsid10966926
\loch\af0\dbch\af36\loch\f0 \hich\af0\93\loch\f0 \hich\af0\C\94\loch\f0 . Attached is the petitioner\hich\af0
\rquote \loch\f0 s }

\f0\fs24\insrsid10966926\charrsid10966926 \hich\af0\dbch\af36\loch\f0 Pennsylvania}
{\f0\fs24\insrsid4864485\charrsid10966926 \hich\af0\dbch\af36\loch\f0 \hich\af0 Child Abuse
History Clearance Certificate marked as \93\loch\f0 \hich\af0 G2\94\loch\f0

on the court file.

\par }{\f0\fs24\insrsid1274780\charrsid10966926 \hich\af0\dbch\af36\loch\f0 The petitioner}
{\f0\fs24\insrsid10756592\charrsid10966926 \hich\af0\dbch\af36\loch\f0 }
{\f0\fs24\insrsid1274780\charrsid10966926 \hich\af0\dbch\af36\loch\f0

affirms that an order of this court will}{\f0\fs24\insrsid13708720\charrsid10966926
\hich\af0\dbch\af36\loch\f0 be recognized and respected by the }
{\f0\fs24\insrsid10966926\charrsid10966926 \hich\af0\dbch\af36\loch\f0 Pennsylvania}{

\f0\fs24\insrsid5970369\charrsid10966926 \hich\af0\dbch\af36\loch\f0
St\hich\af0\dbch\af36\loch\f0 ate}{\f0\fs24\insrsid1274780\charrsid10966926
\hich\af0\dbch\af36\loch\f0 .

\par }{\f0\fs24\insrsid13119472\charrsid10966926 \hich\af0\dbch\af36\loch\f0 There is reference
letter from the Petitioner\hich\af0 \rquote \loch\f0 s employers-}
{\b\f0\fs24\insrsid13119472\charrsid10966926 \hich\af0\dbch\af36\loch\f0 Pinnacle Health
Hospitals}

{\f0\fs24\insrsid13119472\charrsid10966926 \hich\af0\dbch\af36\loch\f0 \hich\f0 attached as Annexure '93\loch\f0 \hich\f0 B\94\loch\f0 and a letter from the Department of Public Welfare Office of Income }{\f0\fs24\insrsid10966926\charrsid10966926

\hich\af0\dbch\af36\loch\f0 Maintenance}{\f0\fs24\insrsid13119472\charrsid10966926
 \hich\af0\dbch\af36\loch\f0 from the state of Pennsylvania in support of the
 petitioner\loch\af0\dbch\af36\hich\f0 \rqquote \loch\f0 s ability to adopt the children.}{

\f0\fs24\insrsid5646651\charrsid10966926

\par }{\f0\fs24\insrsid13239583\charrsid10966926 \hich\af0\dbch\af36\loch\f0 Mrs. Katamba submitted that the applicant has met all the requirements for the adoption of the children.

\par \hich\af0\dbch\af36\loch\f0 Under section 3 of the Children Act, in making any decision on any matter concerning a child}{\f0\fs24\insrsid7692438\charrsid10966926
 \hich\af0\dbch\af36\loch\f0 ,}{\f0\fs24\insrsid13239583\charrsid10966926

\hich\af0\dbch\af36\loch\f0 the welfare of the chil\hich\af0\dbch\af36\loch\f0 d is of paramount consideration.

\par \hich\af0\dbch\af36\loch\f0 Having perused the peti}
 {\f0\fs24\insrsid10756592\charrsid10966926 \hich\af0\dbch\af36\loch\f0 ti}
 {\f0\fs24\insrsid13239583\charrsid10966926 \hich\af0\dbch\af36\loch\f0

on, and the supporting documents and having heard counsel for the applicant, court is satisfied tha}{\f0\fs24\insrsid10756592\charrsid10966926 \hich\af0\dbch\af36\loch\f0 t}
 {\f0\fs24\insrsid13239583\charrsid10966926 \hich\af0\dbch\af36\loch\f0

the petitioner who is a relative of the children has met all the legal requirements for the adopt\hich\af0\dbch\af36\loch\f0 ion of the children.

\par }{\f0\fs24\insrsid10756592\charrsid10966926 \hich\af0\dbch\af36\loch\f0 In view of the above, court is satisfied that the order}{\f0\fs24\insrsid1465673\charrsid10966926
 \hich\af0\dbch\af36\loch\f0 ,}{\f0\fs24\insrsid10756592\charrsid10966926

\hich\af0\dbch\af36\loch\f0 if granted will be for the welfare of the children.

\par \hich\af0\dbch\af36\loch\f0 In the circumstance}{\f0\fs24\insrsid10966926
 \hich\af0\dbch\af36\loch\f0 s}{\f0\fs24\insrsid10756592\charrsid10966926
 \hich\af0\dbch\af36\loch\f0 , court is of the view that the petition should be allowed}{

\f0\fs24\insrsid1465673\charrsid10966926 \hich\af0\dbch\af36\loch\f0 and }
 {\f0\fs24\insrsid10756592\charrsid10966926 \hich\af0\dbch\af36\loch\f0 it is ordered that:-

\par {\listtext\pard\plain\s15 \insrsid10756592\charrsid10966926 \hich\af0\dbch\af36\loch\f0 1.
 \tab}}\pard\plain \s15\qj \fi-360\li720\ri0\sa200\sl360\slmult1\widctlpar\aspalpha\aspnum\faauto\ls
 1\adjustright\ri0\lin720\itap0\pararsid10966926

\fs22\lang1033\langfe1033\loch\af36\hich\af36\dbch\af36\cgrid\langnp1033\langfenp1033
 {\f0\fs24\insrsid10756592\charrsid10966926 \hich\af0\dbch\af36\loch\f0 Sophia Namutebi is
 ap\hich\af0\dbch\af36\loch\f0

pointed the adoptive parent of Nakimuli Hadija and Kaweesa Ibrahim}
 {\f0\fs24\insrsid9972005\charrsid10966926 \hich\af0\dbch\af36\loch\f0 .}
 {\f0\fs24\insrsid10756592\charrsid10966926

\par {\listtext\pard\plain\s15 \insrsid10756592\charrsid10966926 \hich\af0\dbch\af36\loch\f0 2.
 \tab}\hich\af0\dbch\af36\loch\f0 The petitioner is }{\f0\fs24\insrsid9972005\charrsid10966926
 \hich\af0\dbch\af36\loch\f0 to }

\f0\fs24\insrsid10756592\charrsid10966926 \hich\af0\dbch\af36\loch\f0 obtain a Ugandan passport
 for the children}{\f0\fs24\insrsid6029423\charrsid10966926 \hich\af0\dbch\af36\loch\f0 and renew
 it from time to time as required by the law}{

\f0\fs24\insrsid9972005\charrsid10966926 \hich\af0\dbch\af36\loch\f0 .}
 {\f0\fs24\insrsid10756592\charrsid10966926

\par {\listtext\pard\plain\s15 \insrsid10756592\charrsid10966926 \hich\af0\dbch\af36\loch\f0 3.
 \tab}\hich\af0\dbch\af36\loch\f0 The petitioner is directed to register the order with the Registrar
 o\hich\af0\dbch\af36\loch\f0

f Documents Ministry of Justice and Constitutional Affairs Kampala.

\par {\listtext\pard\plain\s15 \insrsid10756592\charrsid10966926 \hich\af0\dbch\af36\loch\f0 4.
 \tab}\hich\af0\dbch\af36\loch\f0 The petitioner is to register the order with the United States }
 {\f0\fs24\insrsid7611178\charrsid10966926

\hich\af0\dbch\af36\loch\f0 E}{\f0\fs24\insrsid10756592\charrsid10966926
 \hich\af0\dbch\af36\loch\f0 mbassy in Uganda and the Ugandan }
 {\f0\fs24\insrsid7611178\charrsid10966926 \hich\af0\dbch\af36\loch\f0 E}
 {\f0\fs24\insrsid10756592\charrsid10966926

\hich\af0\dbch\af36\loch\f0 mbassy in the United States.

\par {\listtext\pard\plain\s15 \insrsid7611178\charrsid10966926 \hich\af0\dbch\af36\loch\f0 5.\tab}}
 {\f0\fs24\insrsid7611178\charrsid10966926 \hich\af0\dbch\af36\loch\f0 The Petitioner is directed
 to register the order with the rel\hich\af0\dbch\af36\loch\f0

evant authority responsible for Probation and social welfare in her state.

\par }\pard\plain \qj \li0\ri0\sa200\sl360\slmult1\widctlpar\aspalpha\aspnum\faauto\adjustright\ri
 n0\lin0\itap0\pararsid10966926
 \fs22\lang1033\langfe1033\loch\af36\hich\af36\dbch\af36\cgrid\langnp1033\langfenp1033
 {\f0\fs24\insrsid10756592\charrsid10966926

\par }\pard \qc \li0\ri0\sa200\sl360\slmult1\widctlpar\asppalpha\asppnum\faauto\adjustright\rin0\lin0\itap0\pararsid10966926 {\b\f0\fs24\insrsid10756592\charrsid10966926
\hich\af0\dbch\af36\loch\f0 MARGARET C. OGULI OUMO

\par \hich\af0\dbch\af36\loch\f0 JUDGE

\par }{\b\f0\fs24\insrsid14840118\charrsid10966926 \hich\af0\dbch\af36\loch\f0 17/}
{\b\f0\fs24\insrsid7611178\charrsid10966926 \hich\af0\dbch\af36\loch\f0 0}
{\b\f0\fs24\insrsid14840118\charrsid10966926 \hich\af0\dbch\af36\loch\f0 7/07

\par }\pard \ql \li0\ri0\sa200\sl360\slmult1\widctlpar\asppalpha\asppnum\faauto\adjustright\rin0\lin0\itap0\pararsid10966926 {\f0\fs24\ul\insrsid9972005\charrsid10966926
\hich\af0\dbch\af36\loch\f0 Present:

\par {\listtext\pard\plain\insrsid9972005\charrsid10966926 \hich\af0\dbch\af36\loch\f0 1.
\tab}}\pard \ql \fi-360\li720\ri0\sa200\sl360\slmult1\widctlpar\jclisttab\tx720\asppalpha\asppnum\faa
uto\ls2\adjustright\rin0\lin720\itap0\pararsid10966926 {

\f0\fs24\insrsid9972005\charrsid10966926 \hich\af0\dbch\af36\loch\f0 Mr. Isaac Mugume holding
brief for Mrs. Victoria Katamba, counsel for the Petitioner.}
\f0\fs24\ul\insrsid9972005\charrsid10966926

\par {\listtext\pard\plain\insrsid9972005\charrsid10966926 \hich\af0\dbch\af36\loch\f0 2.\tab}}
\f0\fs24\insrsid9972005\charrsid10966926 \hich\af0\dbch\af36\loch\f0 Betty Lunkuse-Court Cler}
\f0\fs24\insrsid15665951\charrsid10966926

\hich\af0\dbch\af36\loch\f0 k}{\f0\fs24\ul\insrsid9972005\charrsid10966926

\par }\pard \qc \li0\ri0\sa200\sl360\slmult1\widctlpar\asppalpha\asppnum\faauto\adjustright\rin0\lin0\itap0\pararsid10966926 {\b\f0\fs24\insrsid2110272\charrsid10966926

\par }}

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