



**IN THE HIGH COURT OF MALAWI
LILONGWE DISTRICT REGISTRY
ADOPTION CAUSE NUMBER 10 OF 2020**

**IN THE MATTER OF THE ADOPTION OF CHILDREN ACT
IN THE MATTER OF FW (FEMALE MINOR) PRESENTLY IN THE CARE OF HER
PARENTS AT MBERA TRADING CENTER, BALAKA**

AND

**IN THE MATTER OF A PETITION BY ROBSON MULUMBE AND MARY L.
MULUMBE FOR AN ORDER FOR THE ADOPTION OF FW**

CORUM: JUSTICE R. M CHINANGWA

Mwale	Counsel for the Petitioner
Bonongwe	Guardian Ad Litem
Chitao	Court Clerk

JUDGEMENT

1. This is a petition of Robson Mulumbe and Mary L Mulumbe of Area 49, P.O Box 31844, Lilongwe 3 in the Republic of Malawi and also of 21 Independence Lane, East Millinocket ME 04430, Maine in the United States for the adoption of FW.
2. This court had pronounced an order authorizing the petitioners to adopt FW on 28th April 2021 but had reserved its written judgement. This judgement serves the purpose of providing reasons for the said order and confirming the order made on 28th April 2021.
3. The petitioner Robson Mulumbe is a Malawian National holding National ID QJN3C06R and Passport Number MA013976 and Mary L Mulumbe is an American national holding

passport number 550412763 respectively, resident in the United States of America at the above captioned address.

4. The petitioners are husband and wife having celebrated their marriage 12 July 2014, and have a one-year-old child. Robson Mulumbe is a Pastor and missionary in the United States of America.
5. FW is of female sex, unmarried, a child and in the custody of Johnson Wasibu and Rhoda Wasibu, a citizen of Malawi, 15 years of age having been born on 29th April 2005, resident in Balaka at Mbera Trading Center and is not entitled to property.
6. The petitioner, Robson Mulumbe and FW have the same mother, Rhoda Wasibu. FW was living with the petitioners from 2017 to May 2020 when the Petitioners left for the United States of America. They were and are responsible for the welfare of FW.
7. The biological parents of FW namely Johnson Wasibu and Rhoda Wasibu have consented to the petitioner's request to adopt FW.
8. The Guardian Ad Litem recommended to the court that the adoption of FW by the petitioners would be in her best interest. In the report submitted on 27th April 2021 it is recorded that, I hereby declare that I have read the petition, verified its contents and carried out a thorough social inquiry on this matter. I have found that FW is already close to her brother and sister in-law who want to adopt her. The petitioners have shown from years of supporting the child that they will continue supporting her. FW biological parents are old and may not be the best care givers at the moment. This means that FW is in need of parental care and can be adopted by the Petitioners who have complied with all the conditions of adoption. I have also evaluated the suitability of the Petitioners to adopt a child and I have no objection allowing them to adopt the said child."

Issue for Determination

9. This court has to determine whether the petition for adoption should be granted or not.

Analysis of Law and Evidence

10. The **Adoption of Children Act** has in sections 2 to 4 set out the considerations that the court should take into account in matters of adoption of children. This court finds that the petitioners have met the conditions as discussed below.

- a) FW is under the age of 21 and thus qualifies to be adopted.
 - b) The petitioners are husband and wife having been married in the year 2014. Both are in agreement to adopt FW. In addition, they are both above the age of 25 years.
 - c) The petitioners have received written consent from the biological parents of FW to adopt her. The biological parents of FW did confirm the same to the court in person.
 - d) FW is resident in Malawi as she lives in Balaka. The same has been confirmed by the Guardian ad Litem. The Petitioners were living in Malawi having relocated to the United States in May 2020. The petitioners had lived with FW for 3 years in Malawi prior to their relocating to America. The petition having been filed in August 2020, shows that the petitioners were concerned about FW. The residency requirement has been met.
 - e) FW is financially supported by the petitioners and lives with the biological parents who are old. It would be in the best interest of FW that she be adopted by the petitioners as she would be under the care of the petitioners who are her direct relations that half brother and sister-in-law.
 - f) The petitioners have confirmed that they have not received or agreed to receive any consideration of the adoption. This court has no cause to doubt the same, this adoption being a kinship adoption.
11. The court in an adoption order may impose such terms and conditions as the court may think fit. It is the courts view that to ensure that the welfare of FW is enforced the petitioners are to send her yearly school reports to the Welfare Department up until she completes her high School or attains the age of 21 whichever comes earlier.

Finding

12. It is ordered that the petitioners Robson Mulumbe and Mary Lyn Mulumbe be and are by this order authorized to adopt FW. The Registrar General of Births and Deaths is to make an entry recording this adoption in the Adopted Children register.

Pronounced this 25th day of May 2021 at LILONGWE

RUTH M CHINANGWA

JUDGE