

Court sides with boys born via surrogate

Shinagawa Ward slapped with order to accept their birth registration

Kyodo News

The Tokyo High Court has ruled that twins born to a couple via a U.S. surrogate mother be registered in Japan and that Tokyo's Shinagawa Ward must accept their birth registration.

The couple -- TV performer Aki Mukai, 41, and former professional wrestler Nobuhiko Takada, 44 -- had appealed a family court ruling rejecting their request to register the two boys.

"A court in Nevada recognized the twins as the couple's children. If they are not recognized as the couple's children in Japan, the condition in which the children have no country to legally accept them will continue," presiding Judge Toshifumi Minami said in handing down the ruling Friday.

"The case has no elements that go against public order and morality. The priority must be put on the welfare of the children," the judge stated.

Mukai chose to have a surrogate mother after having a hysterectomy. The surrogate mother gave birth to the twins in 2003 in the state of Nevada through in vitro fertilization using Mukai's eggs.

The Shinagawa Ward Office turned down the couple's application to register the twins after the Justice Ministry said Mukai cannot be recognized as the mother of the children.



Aki Mukai and her husband, Nobuhiko Takada, hold a photo of their children and a paper showing their names at a news conference in Tokyo in January 2004. KYODO PHOTO

The couple filed a suit with the Tokyo Family Court, which rejected their complaint last November. They appealed to the high court.

The Shinagawa Ward Office said it had not read the text of the ruling and could not comment.

Mukai wrote in her blog that it is not yet guaranteed that the birth registration will be accepted, because the ward office may appeal.

But she said that the ruling showed kindness toward the "children who may need to grow up in a parentless situation either in Japan or the United States."

Among different types of surrogacy, one involving in vitro fertilization using the husband's sperm and wife's eggs, as was the case of Mukai, produces children that are genetically no different from those born naturally.

Having a surrogate mother provides hope for couples who cannot have children because of illness, hysterectomies or other conditions, to have children that have blood relations with them. In some countries, including the United States and South Korea, there are agents specializing in surrogacy.

There have been cases in which surrogate mothers refuse to part with the children.

Mukai was denied the request to register her twins because of a Supreme Court ruling that said a woman who gives birth is the mother of a child.

It came to light in 2001 and 2003 that there have been cases of surrogate birth in Japan.

The Japan Society of Obstetrics and Gynecology prohibits surrogacy on the grounds that the welfare of children be put first. Its guidelines say surrogacy poses physical and psychological risks to surrogate mothers and complicates family relations, and that it has not been accepted as ethical by all of society.

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