



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAKURU

ADOPTION CAUSE NO E 4 OF 2020

IN THE MATTER OF AN APPLICATION FOR ADOPTION OF BABY LS

AKK

AKM.....APPLICANTS

RULING

1. The applicants **AKK** and **AKM** filed the **originating summons** dated 9th December 2020, seeking the authority to adopt baby **LS** a child aged 5years. The application is supported by an affidavit dated 9th December 2020 sworn by both applicants.
2. The applicants averred that they married under the customary law on 13th October 2017 and stated that **AKK** is a civil servant working in the [Particulars withheld] department while **AKM** is a business lady. They averred that they are capable of taking care of the infant's medical care, education, and general upkeep and the child has been in their custody.
3. The applicants proposed **SMM** and **JMM** as the legal guardians of the minor.
4. During the hearing, Anita testified that she wished to adopt baby **LS** and change the name to **EKR** and have **SMM** who is her brother and his wife **JMM** as the legal guardians.
5. The legal guardians **SMM** and **JMM** appeared before the Court and confirmed that they have agreed to be the legal guardians of the minor.
6. **Peris Kahara** a social worker at **Buckner Kenya Adoption Services** based in Nairobi testified that the applicants were found fit to adopt baby **LS** and the minor has been in the custody of the applicants since 21st April 2017.
7. **Buckner Kenya Adoption Services** in their report dated 1st December 2021, recommended that the child herein is available for adoption and further the adoption would be in the best interest of the child. They annexed a **Certificate Serial No. XXXX** to declare the child free for adoption.
8. From the report, the minor was presumably born on 11th May 2016; he was rescued from a pit latrine near the show park pub by a police officer on 1st June 2016. The matter was reported to the police station vide OB No. 19/1/6/16. He was admitted to the hospital for 14 days and was committed to Haven of Hope Baby Center vide a **Committal Order No. 336 of 2016** for care and protection for 3years.
9. A further report from the Ministry of Labour and Social Protection and the Department of Children's Services indicate that the applicants are suitable to adopt of the minor; that they meet the threshold for adoption as per the **Children Act 2001**. They are financially stable and capable of maintaining the minor.
10. I have considered the application herein. What is in issue is whether the applicants are suitable to adopt the matter and whether the proposed legal guardians are suitable to be appointed legal guardians of the minor. **Section 154 of the Children Act** empowers this Court to grant orders of adoption.
11. From the applicants' averments and reports filed herein, there is no doubt that the applicants have met the threshold envisaged by the provisions of **Section 158 of the Children Act** which provide as follows: -

(1) An adoption order may be made upon the application of a sole applicant or jointly by two spouses where the applicant or at least one of the joint applicants—

(a) has attained the age of twenty-five years and is at least twenty-one years older than the child but has not attained the age of sixty-five years; or

(b) Is a relative of the child; or

(c) Is the mother or father of the child?

12. Both applicants earn a living and are capable of sustaining and providing for the child. I do note the child has been placed in the care and custody of the applicants since 21st April 2017 and they have bonded well with the applicants. The child is school going.

13. Both reports by Buckner Kenya Adoption Services dated 1st December 2021 and Ministry of Labor and Social Protection recommends indicate the child is free for adoption and find the applicants suitable to adopt the child.

14. From the foregoing I am satisfied that **Sections 154,156, 157, 158, 159, and 160 of the Children's Act** have complied with and allow the application dated 9th December 2020.

15. FINAL ORDERS

1) The applicants AKK and AKM are hereby authorized to adopt the child currently known as LS.

2) The child's name to be changed to EKR.

3) The guardian *ad litem* is currently discharged.

4) SMM and JMM are hereby appointed as joint legal guardians of the child.

5) The Registrar General is hereby directed to make the appropriate entries in the Adopted Children's Register and to issue Birth Certificate.

RULING DATED, SIGNED AND DELIVERED VIA ZOOM AT KIAMBU. THIS 27TH DAY OF JANUARY, 2022

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RACHEL NGETICH

JUDGE

In the presence of:

Jenifer - Court Assistant

Mr. Mbeche holding brief for Mrs Mbeche Counsel for Applicant