



**REPUBLIC OF KENYA**

**IN THE HIGH COURT OF KENYA AT NAKURU (FAMILY DIVISION)**

**ADOPTION CAUSE NO.13 OF 2021**

**IN THE MATTER OF ADOPTION OF MINOR MW**

**PKN**

**LMM .....APPLICANTS**

**RULING**

1. The applicants herein filed **chamber summons** dated 25<sup>th</sup> May 2021 on 21<sup>st</sup> July 2021 brought under **articles 14(4) and 53 (2) of the constitution of Kenya 2010 and sections 4, 154, 156(1), 157, 158, 159, 162, 163,170 and all other enabling provisions of the Children Act** seeking the following orders: -

- a. That the applicants herein be authorized to adopt the said child and the child be henceforth called **MW**.*
- b. That the child is presumed to be a Kenya Citizen having been found in Kenya at the time of birth.*
- c. That the Registrar- General do make the appropriate entries in the Adopted Children's Register in respect of the minor and further the Registrar of Births and Deaths do issue a Birth Certificate in respect thereof.*
- d. That the guardian ad litem **LKM** be discharged and **JWK** be appointed as the legal guardian of the minor herein in the event that the applicants herein are in any way incapacitated or in any way unable to discharge their parental obligations.*
- e. That the court does issue such other orders as may be necessary for the best interest of the child.*

2. The application is supported by the joint affidavit of the applicants sworn on 25<sup>th</sup> May 2021 and the annexures in support. The report from the KKPI Adoption Society declared the child for adoption with the mother of the minor consenting to the adoption.

3. The applicants averred that they are both Kenyan nationals residing in the United States of America and have a home in Nakuru and that they were married on 8<sup>th</sup> April 2015 and are blessed with 2 children. They are related to the child by being the uncle and aunt respectively.

4. From the pleadings, the minor herein was born on 4<sup>th</sup> July 2007 to **GVM** who has consented to the child being adopted and has signed consent to that effect.

5. During the hearing, the applicant **PKN** informed the Court they wished to adopt the minor-aged 14years who is a daughter to her sister-in-law and that the minor is currently studying at [Particulars Withheld] and that they previously lived with her before they left for the USA and she was let in the care of her aunt. He stated that they are willing to care for her.

6. The second applicant **LMM** stated that the minor is her niece and she is willing to adopt her. She stated that she is aware of the adoption rights and wishes to have the minor join them in the USA after the adoption.

7. The legal guardian **LK** a cousin to the minor also confirmed she knows her responsibilities as the guardian to the minor.

8. **Under Article 53(2) of the Constitution provide that a child's best interests are of paramount importance in every matter concerning the child. The applicants herein are related to the child, they are willing to take her the USA and take care of her.** They are both working and are financially stable and capable of assuming the financial responsibility for the minor's education, medical care and upkeep.

9. In **Re JNA [2018] eKLR** the Court stated "local adoption" as follows: -

***“Kenyans living abroad and wishing to adopt a Kenyan child will adopt as Kenyans by way of domestic adoptions. This is therefore considered to be a local adoption.”***

10. The report from the sub county children officer dated 30<sup>th</sup> November 2021 confirm the information in the originating summons and recommends the applicants to be allowed to adopt the minor, the report suggests the minor stands to gain from the opportunities presented by the applicant.

11. From the foregoing I find the applicants suitable to adopt the minor and proposed legal guardian also suitable to be appointed as legal guardian.

**12. FINAL ORDERS**

**1) PKN and LMM are hereby authorized to adopt baby MW.**

**2) JWK is appointed the legal guardian.**

**3) The Registrar General do make the appropriate entries in the Adoption Children’s Register in respect of the minor and further issue a Birth Certificate.**

**4) The guardian *ad litem* is discharged.**

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

.....

**RACHEL NGETICH**

**JUDGE**

**In the presence of:**

Jenifer - Court Assistant

Mrs Gathecha Counsel for the for Applicant