



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA

AT NAIROBI

ADOPTION CAUSE NO. E016 OF 2020 (OS)

AND

IN THE MATTER OF THE CHILDREN'S ACT (NO. 8 OF 2001)

AND

IN THE MATTER OF BABY W

AND

AN APPLICATION FOR ORDERS OF ADOPTION OF BABY W

BY

JA and his wife EAO

JUDGEMENT

1. By an Originating Summons dated 4.8.20 the Applicants JA and his wife EAO seek to adopt a child known as Baby W. In their quest to adopt a child, the Applicants were assessed by Buckner Kenya Adoption Services a registered adoption society and taken through the adoption process and its implications. The Society's case committee sitting on 16.2.18 found the Applicants to have met the legal and social parameters required for adopting a child. The child was placed with the Applicants on 3.4.18.

2. Baby W was born on 13.5.17 at Ruaraka Uhai Neema Hospital to one ANK holder of national identity number xxxxxxxx. The notification of birth is serial number xxxxxxx. The mother of the child approached KKPI Adoption Society with an intention to offer her child for adoption. She was counselled on the legal implications was taken through the explanatory memorandum for offering the child up for adoption. Amry swore an affidavit consenting to the adoption on 22.8.17. The child was admitted at Happy Life Children's Home on 19.5.17 for temporary care and protection pending committal. The Children's Court at Nairobi did on 22.9.17 *vide* Protection and Care Case Number xxxx formally commit the child to the same home for a period of 3 years. The child was declared free for adoption by Kenyan Peace Initiative Adoption Society on 30.8.17 *vide* certificate serial No. xxxx.

3. On 20.5.21, the Court appointed GVC as guardian *ad ad litem* for the child pending the hearing and determination of the adoption application, in accordance with Section 160 of the Children Act.

4. The Applicants have gone through the requisite assessments, and reports in respect thereof have been filed. Buckner Kenya Adoption Services which arranged the adoption of the child filed its report on 17.9.2020. For the Director of Children Services was filed a report dated 24.9.21 by Mary Atati, Assistant Director Children Services and countersigned by Hoyd Isadia, Deputy Director, Director Children Services. GVC the guardian ad litem, also filed her report dated 11.6.21. I have carefully assessed the said reports. They are all favourable, and recommend the proposed adoption.

5. The child has been in continuous care and control of the Applicants for a period of over 4 years which is more than the statutory 3 months required under Section 157 of the Act. The Applicants are not younger than 25 years nor older than 65 years. They are more than 21 years older than the child. Section 158 of the Act has thus been complied with. The Applicants have been made aware of the consequences of an adoption order as well as the rights of an adopted child. They shall assume all parental rights and duties of the biological parents in respect of the child. I am satisfied that they fully understand that the adoption order is final and binding during the lifetime of the child and that they cannot under any circumstances give up the child. They also understand that the child shall have the right to inherit their property. The

Applicants have demonstrated that they have the psychological and emotional capacity as well as the material resources to raise the child in a loving home environment. They propose to name the child Israel JFA.

6. The Applicants have nominated brother to the second applicant, WOO and his wife JAO to be the legal guardian of the child, in the event of the Applicants dying or becoming incapacitated before the child is of full age. They both signed a letter dated 25.8.17 accepting to be the legal guardians of the child.

7. Having taken into account the foregoing factors, this Court has formed the opinion that it would be in the best interests of the child that he be adopted by the Applicants. The Court is further satisfied that all the legal requirements for a local adoption have been met and makes the following Orders as prayed in the amended Originating Summons herein:

- a. The Applicants JAholder of national identity card number xxxxxxxx and his wife EAO holder of national identity card number xxxxxxxx are hereby allowed to adopt Baby W who shall henceforth be known as Israel JFA.
- b. I direct the Registrar General to enter this order in the Adoption Register.
- c. WOO and JAO are hereby appointed legal guardians of the child in the event that the Applicants die or are otherwise incapacitated before the child attains the age of 18 years.
- d. The appointment of GVC, the guardian *ad litem* now stands expired.

DATED, SIGNED AND DELIVERED AT NAIROBI THIS 25TH DAY OF FEBRUARY, 2022

M. THANDE

JUDGE

In the presence of: -

..... **for the Applicant**

..... **Court Assistant**