



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA

AT KIAMBU

ADOPTION NO. E001 OF 2021

IN THE MATTER OF THE CHILDREN'S ACT 2001

AND

IN THE MATTER OF AN APPLICATION FOR ADOPTION OF BABY CM (THE CHILD)

BY

NPG 1ST APPLICANT

HNN 2ND APPLICANT

JUDGMENT

1. The applicants, **NPG** and **HNN** seek to adopt **baby CM**. They are 46 and 41 years old respectively. Both are in full time employment.
2. The applicants have been married since 2006. Their union has not been blessed with an issue. The couple desires to be parents and therefore chose to adopt. They are physically and mentally fit to adopt. They filed a medical report in support of that assertion.
3. Both applicants have no criminal record as evidenced by the attached police Clearance Certificate and are active members of their church.
4. Baby **CM** was found abandoned in **Embakasi** immediately after her birth. A good Samaritan picked her and reported the matter to the police station. No one has claimed the child. The police wrote a final letter to **Imani Children's home** by which they informed the children's home that relatives of the baby had not been traced.
5. The child was committed to **Imani Children's Home** on 26th October 2019. On 31st October 2019, the child was declared free for adoption by **KKPI Adoption Society**.
6. This court appointed **JN** the *guardian ad litem*. The *guardian ad litem* filed his report dated 18th September 2021. In that report, he stated that the child is well taken care of by the applicants and the larger family is supportive of the adoption. The *guardian ad litem* further noted that the applicants adjusted their home to accommodate the child and changed their schedules in order to have more time with the baby.
7. The **Director of Children Services** filed in court a report, on 25th November 2021. In the report it was noted that the child had bonded well with the applicants. The report also stated that the extended family is supportive of the applicants' decision to adopt. The children's officer also stated that the applicants have a stable marriage. For those reasons she recommends that final orders of adoption be granted.
8. The parent/guardian of the baby, if any is unknown, and all attempts to trace them has been unsuccessful. An adoption application requires that it be accompanied by a consent, amongst other requirements, of the parent/guardian: see Section 158 (4) of the Children's Act (hereafter the Act). Having considered the background information set out above I am of the view that this is a case where this court can dispense with the requirement for such a parent/guardian to give their consent to this adoption. Such dispensation is provided for under **Section 159 (1) (c)** of the Act, as follows:

(1) The court may dispense with any consent required under paragraphs (a), (b), and (c) of subsection (4) of section 158 if it is satisfied that:-

(a) . . .

(b) . . .

(c) in any case, except in respect of the consents required under paragraphs (e) and (f) of subsection (4) of section 158 that the person whose consent is required cannot be found or is incapable of giving his consent or that his consent has been unreasonably withheld.

9. This court does hereby dispense with the requirement of the consent of the parent/guardian of the child.

10. From the above, I find that the applicants have fulfilled the legal requirements necessary for the making of an adoption order. The applicants are aware of their responsibility in adopting the child and the consequences of making such an order.

11. The applicants have shown they are socially, financially, and emotionally able to take on parental responsibility for the child.

12. The court is also satisfied that they have met all the legal requirements for adoption under the children's Act. This is a local adoption it is in the best interest of the child to grant the orders sought

13. Consequently, I grant the following orders:

- a) The applicants, *NPG* and *HNN* are hereby allowed to adopt **baby CM**.
- b) **Baby CM** shall henceforth be known as **RWG**.
- c) **Baby RWG** is hereby declared to have been born on 18th March 2019 at Nairobi.
- d) **Baby RWG** is presumed to be a Kenyan Citizen by Birth.
- e) That **GNM and JKN** are hereby appointed the legal guardians of baby **RWG**.
- f) The Registrar General is directed to make appropriate entries in the adopted Children's register.
- g) The consent of the biological parent/s or guardian is hereby dispensed with.

JUDGMENT DATED AND DELIVERED AT KIAMBU THIS 21ST DAY OF FEBRUARY, 2022.

MARY KASANGO

JUDGE

Coram:

Court Assistant :-

For the applicant: - N/A

COURT

JUDGMENT delivered virtually.

MARY KASANGO

JUDGE