



REPUBLIC OF KENYA



KENYA LAW
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**In re M aka JKM (Adoption Cause E019 of 2021)
[2022] KEHC 266 (KLR) (31 March 2022) (Judgment)**

Neutral citation: [2022] KEHC 266 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT MACHAKOS
ADOPTION CAUSE E019 OF 2021
MW MUIGAI, J
MARCH 31, 2022
IN THE MATTER OF THE CHILDREN'S ACT
IN THE MATTER OF THE ADOPTION OF M AKA JKM
BY
SMM & AMM.....APPLICANTS**

JUDGMENT

1. Through an Application by Originating Summons dated 15th October, 2021 and filed in Court on the 19th October, 2021, the Applicants SMM and AMM sought to adopt Baby M the child in this matter and the baby to be known as JKM. AKM be appointed to act as a Guardian Ad Litem for the child pending the hearing and determination of the application. The Guardian Adlitem AKM was appointed as such for purposes of these proceedings on 8/12/2021.
2. The child who is the subject of these adoption proceedings Baby M was found abandoned at Narok County & Referral Hospital. A report was made at the Narok Police Station vide OB No. xxxxx. The child was placed with the Children's Officer Narok North for the purposes of placing the child in a fit institution that suits the best interests of the child as the police carried out investigations to trace the person responsible were still ongoing. As efforts to trace the person behind the abandonment were futile vide a letter from Narok police station dated xx/xx/2018 the Sub County Children's office secured a placement at The Nest children Home.
3. Little Angels Network filed their report dated 8th May, 2019. On 3rd February, 2022 Mr. Joshua Wambua from Little Angels Network appeared in Court and confirmed that the child subject of these proceedings was declared free for adoption on 4/05/2018 and the declaration Certificate is xxxx. The Adoptive parents had approached Little Angels Network on 31/03/2019. The relevant home visits and follow-ups were done and placed before Case Committee on 8/05/2019 and were approved. They were placed with baby M on 9/09/2019. The child and adoptive parents have bonded well. They recommend the adoption.



4. The Applicants SMM and AMM were married on 8th January, 2000 in a church wedding at [Particulars Withheld]. Mr. Samuel Mutuku Mweu is a fully fledged farmer, rearing dairy, pigs, chicken and does crop farming while AMM was employed in 1995 after completing a certificate course in Community Nursing and was posted in West Pokot and then transferred to Machakos in 1988 to date. By the time the couple approached the Child Welfare Society of Kenya they had no child of their own but they have been taking care of 8 year old nephew by the name JM since 2011. The boy is in class 4 at [Particulars Withheld] Academy in Machakos. The couple had discussed adoption as a couple and were in agreement. They are desirous to adopt a child to have a complete family, an heir for the property and to provide a home and education for a child without one. They would wish to adopt a male child between aged 2 – 3 years. The Applicants have undergone medical evaluations at Machakos Level 5 Hospital on 29/03/2019 and were assessed by Dr. Charles and the doctor confirmed that they were of good health, fit mentally in mind and stable to proceed with adoption. Their family's members are all positive and supportive about the idea of adoption. They also have a comprehensive medical covers being NHIF and MTIBA and the adopted child will benefit from both covers. The Applicants are economically stable as the prospective adoptive father earns between Kshs.80,000 – 125,000/- per month from farming and rental houses while his wife nets Kshs. 31,000/- per month. Their monthly expenses include school fees for their nephew, food, transport and house help, utility fees and other miscellaneous expenses. They have assets in form of 1/8 of a plot in Katoloni, they have built their home and rental houses and the estimated value for all the assets is Kshs.5 million. The prospective adoptive father has a loan with Afya Sacco of Kshs.300,000/- and he was servicing the same.
5. The Director of Children Services through a Report dated 11th January, 2022 in respect of the proposed adoption of the child by the Applicants was prepared by Ms Emily Kimanzi the Sub-County Children's Officer Machakos. The report contains family and professional background information of the Child's Adoptive Parent. The Applicants are economically stable. Mr. SMM is a farmer while AMM is a nurse employed by the County Government of Machakos. The Applicants owns their own home in Machakos Town in a piece of land which they have purchased. They have built rental house in the same place where they receive rent monthly. They also have received 10 acres piece of land as inheritance from their father located in Lukenya area of Mavoko Sub-County wthey they practice farming. On observation the Applicants are feeling fulfilled after waiting for many years to sire their own biological children and the minor has brought them a lot of happiness and they have good, plans to educate him and give him a good life. They recommended the adoption as the child was an abandoned baby and has been declared free for adoption by a registered adoption agency, the Applicants have no criminal records and are medically fit, they have enrolled him in school and have good plans for his future, they are financially stable and hardworking and it is for the minor's best interest so that he can have a sense of belonging.
6. The Guardian ad Litem, AKM a nurse by profession. She had been working at [Particulars Withheld] Hospital. She filed her report dated 25th January, 2022 and filed in Court on 31st January, 2022 on the suitability of the Applicant as potential parent and the welfare of the child while being fostered by the Applicants. She stated that she knew the proposed adoptive parents for over 20 years as they have been close friends as well as the child subject in this matter. She has worked together with A and she has known them since they got married. She further stated that she had on several occasions interacted with Applicants together with Baby M and confirms that they have taken good care of the said child. The Guardian ad Litem fully recommended the Adoption.
7. This Court finds that the adoption in question is in the best interest of the child as she will grow up within a family of her own instead of an institution. The Reports by the Director of Children's Services, Guardian Adlitem and the Adoption Agency are in favour of the adoption after due diligence



process. The Applicant have fulfilled all the legal requirements necessary for a local adoption and have been proven to be suitable potential adoptive parent.

8. The Applicants herein SMM and AMM were assessed and found to be financially stable from their incomes in farming and employment respectively hence well capable of raising the child. The Applicants are well aware that an order of adoption grants the child inheritance rights to his property and they have no objection to it.

Disposition

- a. The Applicants, SMM and AMM are hereby authorized to adopt the child Baby M and the child shall therefore be known as JKM. Date of Birth shall be 15th August, 2017 . The place of birth shall be Narok North- Narok County. He is therefore presumed to be a Kenyan citizen by birth.
- b. The Legal Guardian is DM.
- c. The Registrar General is hereby directed to enter this order in the Adoption Register.
- d. The Guardian ad litem is hereby discharged.

READ AND DELIVERED IN OPEN COURT AT MACHAKOS THIS 31ST DAY OF MARCH, 2022.

MARGARET W. MUIGAI

JUDGE

