



REPUBLIC OF KENYA



KENYA LAW
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**In re AI (Baby) (Adoption Cause 5 of 2022)
[2022] KEHC 3118 (KLR) (Family) (23 June 2022) (Judgment)**

Neutral citation: [2022] KEHC 3118 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT NAIROBI (MILIMANI LAW COURTS)**

FAMILY

ADOPTION CAUSE 5 OF 2022

AO MUCHELULE, J

JUNE 23, 2022

ADOPTION CAUSE NO. E005 OF 2022(OS)

IN THE MATTER OF THE CHILDREN ACT, 2001

AND

IN THE MATTER OF BABY A.I.

IN THE MATTER OF AN APPLICATION FOR

ADOPTION BY

PMM.....1ST APPLICANT

MMD.....2ND APPLICANT

JUDGMENT

1. The applicants PMM and MMD are a Kenyan couple aged 44 and 38 years, respectively. The 1st applicant is a clerical officer while the 2nd applicant operates a salon business. They got married under Kamba customary law in 2006, and the marriage was solemnized at A.I.C. Kasarani on 8th April 2017 under certificate of marriage number xxxxxx. They are blessed with one biological child. On 20th January 2022 they filed this originating summons seeking to adopt Baby A.I.
2. Baby A.I. is estimated to have been born on 4th September 2018. The baby was found by a good Samaritan to have been abandoned on 6th December 2018 in a bush within Joska area by a good Samaritan. The incident was reported at Joska Police Post vide OB No. 19/06/09/2018. The baby was temporarily placed at Imani Children's Home on the same date. She was formally committed to the said institution by the Nairobi Children's Court in Protection and Care Case No. xxx of 2018 on the 28th November 2018. The final police letter dated the 12th March 2019 indicated that all efforts to trace the parents or relatives of the child were not successful. On 7th August 2019 the child was declared free



for adoption and certificate No. xxx issued by KKPI Adoption Society. The applicants have been with the child since the 25th August 2019 when it was placed with them for foster care.

3. On 10th February 2022 the court appointed MMM as the guardian ad litem and ordered her and the Director of Children Services to separately carry out a social inquiry on the applicants to determine their suitability to adopt the child. The two reports were filed. Both recommended the applicants to be allowed to adopt the child. The reports found that the applicants were socially, emotionally and financially stable and suitable to adopt the child. It was also found that the child had bonded well with the applicants.
4. The court finds that it is in the best interest of the child to be adopted by the applicants. The applicants have demonstrated their capability to provide a conducive home and family environment in which the child will grow and develop. They will assume all parental rights and obligations of the biological parents of the child once adopted and shall treat her as if she was born to them. They have been made aware that once the adoption order is made, it shall be final and binding during the lifetime of the child. The child shall have the right to inherit their property. The applicants shall not be able to give up the child owing to any subsequent unforeseen behaviour or other changes in the child. The consent of the parents of the child is hereby dispensed with as she was found abandoned.
5. Having been satisfied that all the legal requirements for a local adoption under the *Children Act* have been met, the following orders shall issue:-
 - a. the applicants PMM and MMD are hereby allowed to adopt Baby A.I.;
 - b. Baby A.I. shall henceforth be known as GW;
 - c. the child's date of birth shall be 4th September 2018, and shall be presumed a Kenyan having been found abandoned at Joska Area in Machakos County in Kenya;
 - d. ANM and JMC are hereby appointed as the child's legal guardians in the event of the death or incapacity of the applicants before she is of full age and fully self-reliant;
 - e. the Registrar-General is directed to enter this adoption in the Adopted Children Register; and
 - f. the guardian ad litem is hereby discharged.

DATED AND DELIVERED AT NAIROBI THIS 23RD DAY OF JUNE 2022.

A.O. MUCHELULE

JUDGE

