



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT KERUGOYA

ADOPTION CAUSE NO.4 OF 2019

IN THE MATTER OF ADOPTION OF

BABY CT.....THE CHILD

BY

JMK1ST APPLICANT

JWM2ND APPLICANT

JUDGMENT

1. The applicants took out the originating summons dated 4th November 2019 seeking **Orders:**

- (1). That the applicants be authorized to adopt Baby CT to be known as BZMM.**
- (2). That MWM be appointed as legal guardian of the child upto when he attains full age and fully self-reliant.**
- (3). That the Registrar- General be directed to enter in the adopted Children's register an entry of the adoption.**
- (4). The child be presumed to be a Kenyan Citizen by birth.**
- (5). That the court be pleased to make any further orders it deems necessary.**

2. Together with the originating summons the applicants have filed documents, affidavits and consents in support of the application. These include the statement and affidavits of the joint applicants, birth certificate of the minor, and consent by Ripples International Adoptions Centre giving up the child for adoption. The biological mother's consent to give up the child for adoption, including her particulars and identification.

3. Other documents are the Admission form of the child to Neema House infant Rescue Centre, Children's Court at Meru order releasing the child for adoption and Little Angels Network declaring the child for adoption.

4. Further, there is filed the care agreement between the Rescue Centre and the applicants, and a pre-placement report. Further filed is the Police Clearance Certificates and lastly the Children Officer's Report on suitability of the proposed adoptive parents to adopt the child.

5. The legal requirements for an adoption Order to be granted are stated at **Section 158 of the Childrens Act** that;

(1). An adoption Order may be made upon the application of a sole applicant or jointly by two spouses where the applicant or at least one of the joint applicants-

(a) Has attained the age of twenty five years and is at least twenty one years older than the child but has not attained the age of sixty five years; or

(b) Is a relative of the child; or

(c) Is the mother or father of the child

(2). An adoption order shall not be made in favour of the following persons unless the Court is satisfied that there are special

circumstances that justify the making of an adoption Order-

(a) A sole male applicant in respect of a female child;

(b) A sole female applicant in respect of a male child;

(c) An applicant or joint applicants who has or both have attained the age of sixty-five years.

6. Further **if applicants are of unsound mind (mental Health Act) is a homosexual, a sole foreigner male applicant** – and upon the Court being satisfied that it is for the interest of the child. A child who has attained the age of 14 years may not be adopted unless with the child's consent – **Section 158 (2), (3), (4) (f).**

7. For an adoption Order to be made, the court must consider that [**Section 157 (1)**] - that the child has been under the care of the applicants for a period of three consecutive months prior to the filing of the application for adoption.

The child and proposed adoptive parent(s) must also be evaluated and assessed by a registered adoption society in Kenya.

8. I have considered the application before me. The applicants are adults of sound mind; the mother being 30 years and the father being 35 years old. Both are in gainful employment. They have no biological child of their own since celebration of their civil marriage in 2014 at St. Pauls' A.C.K Church in Embu. They have been assessed and evaluated and found to be suitable and able to bring up the proposed child, and being parents to the child in a loving stable family. Upon examination I found them to understand their responsibilities to the child as well as the child's inheritance rights.

9. On the 14th February 2018 the Children's Court at Meru granted the Committal of the Child into the custody of Neema House Rescue Centre. The Little Angels Network an adoption society declared the child free for adoption by a certificate of declaration dated 14th February 2018 at seven months old. On the 5th February 2018, the child was placed under care of the applicants.

10. The applicants by their affidavits have never been charged with any offence as stated in the Third Schedule of the Children's Act, 2001. The Children's Officers Report on the suitability of the applicants is positive. It shows that the child has bonded very well with the proposed adoptive parents. I saw the child in court. He is playful, healthy and bubbly. It is evident to me that the applicants are caring and loving parents to the child who will have a family to grow into.

I am persuaded that the application is for the best interest of the child.

11. I examined the proposed legal guardian, MWM. She understands the duties and responsibilities placed upon her under the **Children's Act.**

12. The High Court has jurisdiction under **Section 154 (1)** of the Children's Act to make an adoption Order authorizing an applicant to adopt a child.

13. Accordingly, and for the above reasons, the applicants are hereby authorized to adopt Baby CT to be known as BZMM. MWM is likewise appointed as the legal guardian of the child, who shall be presumed to be a Kenyan Citizen by birth. The Registrar-General is directed to enter in the adopted Children Register an entry recording the Adoption.

Orders accordingly.

Dated, signed and delivered electronically from Kerugoya this 25th day of January 2021.

J.N. MULWA

JUDGE