



**REPUBLIC OF KENYA**

**IN THE HIGH COURT OF KENYA AT KERUGOYA**

**ADOPTION CAUSE NO.3 OF 2019**

**IN THE MATTER OF ADOPTION OF**

**BABY SG.....THE CHILD**

**BY**

**ZMM.....1<sup>ST</sup> APPLICANT**

**EWM.....2<sup>ND</sup> APPLICANT**

**JUDGMENT**

1. By an Originating Summons taken out on the 8<sup>th</sup> October 2019, the Applicants, a Marital Couple, sought the following **Orders:**

- (1). That the applicants be authorized to adopt Baby SG to be known as SMM.**
- (2). That AWM be appointed as the legal guardian of the child before he is of full age and fully self-reliant.**
- (3). That the Registrar-General be directed to enter into the adopted children register an entry recording the adoption.**
- (4). That 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. The applicants are Kenya adults of sound mind and married to each other for more than 27 years. They operate own business in a general hardware and a restaurant within Kirinyaga County. They are residents of Wang'uru Town within Tebere Location. They have own permanent house and rental houses on Plot No.[...].

By the Children Officer's report dated 14<sup>th</sup> December 2020 the applicants are economically able to take care of the proposed minor child. They are stated to be mature and capable of bringing up the child.

3. The proposed child was born on the 24<sup>th</sup> April 2016 and abandoned, but was rescued and a police report made at the Naro Moru police station. Thereafter, the child was admitted at the New Life Home Trust on the 30<sup>th</sup> June 2016 and declared free for adoption by the **Court vide Nyeri Children's Court No.50 of 2016** on the 30<sup>th</sup> June 2016.

4. The Naro Moru Police furnished a final report by a letter dated 16<sup>th</sup> November 2016 upon failure to trace the child's mother.

5. The child was placed for care with the applicant's on the 22<sup>nd</sup> August 2017. They do not have a biological child of their own, and expressed their desire to adopt a boy child. They have lived with the child since then, and considering the reports filed herewith, the child has bonded well with the applicants.

6. I have examined the proposed adoptive parents and the proposed Legal Guardian, AWM. The proposed adoptive parents understand their duties and responsibilities to the child if their prayers are granted. They also understand the inheritance rights of the proposed child.

7. By **Section 157 (1) of the Children's Act**, any child who is a resident within Kenya may be adopted, whether born in Kenya or not, provided that no application for adoption shall be made in respect a child unless the said child has been in continuous care and custody of the applicant within the Republic of Kenya for a period of consecutive three months preceding the filing of the application for adoption, and that both the child and the applicants have been evaluated and assessed by a registered adoption Society of Kenya.

8. I am satisfied that the above procedural steps have been satisfied. The paramount importance in an application for adoption is the best interest of the Child as stated **Under Article 53 (2) of the Constitution.** This imperative is also stated in **Section 4 (2) and (3) of the Children's Act.** I am satisfied that all the legal requirements have been met by the applicants and all other agents. I have also considered all the documents and affidavits filed in respect thereof.

9. **Section 15 A (1) of the Children's** mandates the Court to make an adoption Order if it is satisfied that it is for the best interest of the child and upon all legal requirements being complied with.

For the going reasons, the applicants Originating Summons dated 8<sup>th</sup> October 2019 is hereby allowed in terms of prayers 1, 2, 3 and 4.

10. Accordingly;

1. **The applicants are authorized to adopt Baby SG to be known as SAM MAINA MWANGI.**
2. **AWM is hereby appointed the legal guardian of the child.**
3. **The Registrar-General is hereby directed to enter in the Adopted Children Register an entry recording the adoption.**
4. **The Child is presumed to be a Kenyan Citizen by birth.**

Orders accordingly.

**Dated, signed and delivered electronically from Kerugoya this 25<sup>th</sup> day of January, 2021.**

**J. N. MULWA**

**JUDGE**