



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA

AT NAKURU

ADOPTION CAUSE NUMBER 7 OF 2019

IN THE MATTER OF ADOPTION OF BABY IKN A.K.A. AM A.K.A GKY

AND

GKL1ST APPLICANT

GC2ND APPLICANT

J U D G M E N T (2)

1. G and G had a customary marriage in 2013, and solemnized the same on 20th December 2017. They have not been blessed with children of their own.
2. On 4th July 2019 they wrote to the Chief Administrator Kenya Children's Homes (KCH) Adoption Society seeking to adopt a child. Their application was approved on 19th September 2018 by the KCH Adoption Society Committee for adoption of two (2) children.
3. After hearing the matter, on 23rd April 2020 I delivered the Judgment but could not make final orders. For reasons to be found in that judgment I requested the following.

- **A written explanation for the change of names on admission of the child to the children home.**
- **Clear copy of the biological mother's National Identity Card and a clarification of the details of her age.**
- **Evidence to support dispensing of the biological father's consent.**
- **A copy of the Children Officer's Report in Nakuru Children's Protection and Care (P & C) file no 358 of 2018.**
- **The report of the guardian ad litem as per Rule 9 of the Adoption Rule.**

The report of the guardian ad litem was filed. He highly recommended the applicants as adoptive parents for the child.

The first applicant swore a further affidavit annexing a copy of the Children Officer's Report in the P&C file where the child was committed to the AGC Baby Centre. It also had annexed a copy of the identity card of the birth mother of the baby, annexed to a copy of the affidavit she swore on 25th June 2018 confirming that she had given birth to the child not offered him up for adoption.

Regarding the Children Officer's Report, it is dated **6th June 2018**. It does not bear the file number and contains some factual inconsistencies. According to the birth mother's affidavit she gave birth to the child on **5th April 2017** although the notification of birth states **5th April 2018**. Approached Kenya Children Homes Adoption Society on **20th April 2018**. According to the Children Officer's Report the child was one month old as on 6th June 2018, and was offered for adoption by the mother on **20th April 2018** when he was **one day old**, meaning that he was born on the 19th April 2018. The Children Officer's Report also states that the parents of the child were unknown, an actual lie, as the child's mother was known to the baby Centre, where he had been since 20th April 2018. Question is, did the children officer carry out any inquiries?

Regarding the change of the child's name the AGC Centre's social worker stated in a report dated 11th June 2020:

“ ...On admission to the AGC Baby Centre all children are given baby Centre names which are usually two English names, the original name of the child as well as the original documents are kept in the child’s individual file. The reason we give children other names is majorly to protect the children from ethnic profiling during adoption and most children are brought here for care and protection therefore any person can come to the baby Centre and get information of the child since all the staff will know the child with the English names that we give and not the original name. The original name is also indicated on the child’s admission form, its therefore one child with two different names”

The Centre appears to act contrary to its own stated policy. The names given to the child at the Centre have no relationship with the original name of the child. The child’s original name is IKN. The assigned ‘English names’ are AM.

The other reason about changing a child’s name to protect them against ethnic profiling of children surely cannot be tenable. On the face of what this does is to lose the child. No evidence has been placed before this court that the children taken to this Charitable Children Institution (CCI) are under any threat from any one to warrant losing their identity. Children found to be abandoned and neglected and taken to CCI’s for care and protection sometimes find themselves in those situations out of unlawful actions of adults. Granted that even those persons may not use the real names, changing a child’s name only makes the trail more difficult to trace, should that be the case. That policy ought to apply to deserving cases only to avoid the confusion I have seen in a number of files. In any event why would we want to erase and hide the ethnicity of children who may in their adulthood want to know their roots? It may not always be in their best interests to do this, and may result in psychological trauma, unless, it is necessary for the safety of the child.

Be that as it may, and having pointed out all these shortfalls, for the record and for the purposes of future proper implementation, I find that from the evidence on record and recommendations made the applicants herein are suitable adoptive parents for the child.

The Originating Summons dated 10th May, 2019 is allowed in the following terms:

- a. THAT the applicants be authorized to adopt IKN to be known as GKY henceforth.***
- b. THAT the Registrar-General do make appropriate entries in the adopted children’s register in respect of GKY.***
- c. EKL is appointed his Legal Guardian.***
- d. The Guardian ad Litem is discharged.***
- e. Costs in the cause.***

Dated this 12th January, 2021.

Mumbua T Matheka,

Judge.

Delivered by email after counsel was notified and did not appear virtually this 13th day of January, 2021.

Mumbua T Matheka,

Judge.

In the presence of:

Court Assistant: Edna