



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI

FAMILY DIVISION

ADOPTION CAUSE NO. 23 OF 2019 (OS)

IN THE MATTER OF THE CHILDREN ACT, 2001

AND

IN THE MATTER OF BABY AW

IN THE MATTER OF AN APPLICATION FOR ADOPTION

BY

RIN.....1ST APPLICANT

WBE.....2ND APPLICANT

JUDGMENT

1. The applicants RIN and WBE are a Kenyan couple aged 32 and 29, respectively. The 1st applicant is a teacher at [Particulars Withheld] High School while the 2nd applicant is a business lady. The parties solemnized their civil marriage on 28th December 2016 and got marriage certificate number xxxxxx. They have no child. They filed this originating summons dated 21st February 2019 seeking to jointly adopt Baby AW.

2. Baby AW is presumed to have been born on 23rd May 2017. He was found abandoned on 28th May 2017 in Kawangware by a good Samaritan PA. The incident was reported at Muthangari Police Station under OB number 36/29/5/2017. The child was temporarily placed at New Life Home Trust. The child was committed to the same Home on 22nd November 2017 under Protection and Care Case Number xxx of 2017 by the Senior Resident Magistrate Children Court in Nairobi. According to the police efforts to trace the relatives of the child did not bear any fruits. The child was declared free for adoption by Little Angels Network on 4th May 2018 under certificate number 00xxxx and placed with the applicants on 26th June 2018 for bonding. He has been with the applicants since.

3. The court on 2nd May 2019 appointed DMI as the guardian *ad litem* and ordered him to investigate the suitability of the applicants to adopt the child and to file a report within 45 days. A similar report was sought from the Director of Children Services. Both reports were duly filed, and each recommended that the applicants 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 and the applicants had bonded well.

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 ability 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 him as if he 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 properties. 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 dispensed with as the child 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 RIN and WBE are hereby allowed to adopt child AW.;

b) Child AW shall henceforth be known as KI;

c) the child's date of birth shall be 23rd May 2017 and shall be presumed to be Kenyan by birth having been found abandoned at Kawangware in Nairobi in Kenya;

d) WBM and EKN are hereby appointed to be the child's legal guardians in the event of death or incapacity of the applicants before he 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 11th day of FEBRUARY 2021

A.O. MUCHELULE

JUDGE