



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI

FAMILY DIVISION

ADOPTION CAUSE NO. E056 OF 2020 (OS)

IN THE MATTER OF THE CHILDREN ACT, 2001

AND

IN THE MATTER OF AN APPLICATION FOR AN ADOPTION OF BABY EH

IN THE MATTER OF AN APPLICATION FOR ADOPTION BY

SKM.....1ST APPLICANT

DWN.....2ND APPLICANT

JUDGMENT

1. The applicants SKM and DWN are Kenyan citizens who are aged 40 and 41, respectively. The 1st applicant is a businessman and the 2nd applicant is an administrator at [particulars withheld] Church. They got married on 23rd August 2008 at [particulars withheld] in Kiambu West. They have not been able to have a child, but on 26th June 2014 they were allowed to adopt a female child. They filed this originating summons dated 9th September 2020 seeking to be allowed to adopt Baby EH

2. Baby EH was on 30th April 2017 found abandoned in Gatanga in Muranga County. The two ladies who found the child reported the incident at Kirwara Police Station and recorded in OB No. xx/xx/x/xx. The child was admitted to New Life Home Trust on 19th May 2017. On 25th July 2017 the Senior Resident Magistrate Court at Kandara vide **Protection and Care Case No. 15 of 2017** formally committed the child to the Home. Police efforts to trace the mother or relatives of the child did not bear any fruits. On 31st January 2019 the child was declared free for adoption vide Certificate No. xxxx by Little Angels Network. The child was on 1st March 2019 placed with the applicants for foster care. He has been with the applicants since.

3. On 3rd December 2020 the court appointed AK as guardian *ad litem*, and asked him and the Director of Children Services to separately inquire into the suitability of the applicants to adopt the child and to file a report within 45 days. The reports were filed. Each recommended the applicants to adopt the child. The reports found that the applicants were emotionally, socially and financially suitable to adopt the child. It was found that the child had bonded well with applicant and their family.

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 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 property. The applicants shall not be able to give up the child owing to any subsequent unforeseen behaviour or other changes in the child. This court dispenses with the consent of the child's parents as he 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 SKM and DWN are hereby allowed to adopt Baby EH;
- b) Baby EH shall henceforth be known as EH;
- c) the child's date of birth shall be 30th April 2017 and shall be presumed to be a Kenyan citizen having been abandoned at

[particulars withheld] Village of Gatanga Sub-County in Muranga County in Kenya;

d) that TNM is hereby appointed as the child's legal guardian in the event of the 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 SIGNED AT NAIROBI THIS 25TH DAY OF MARCH 2021

A.O. MUCHELULE

JUDGE