



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI

FAMILY DIVISION

ADOPTION CAUSE NO. 174 OF 2019 (OS)

IN THE MATTER OF THE CHILDREN ACT, 2001

AND

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

IN THE MATTER OF AN APPLICATION FOR ADOPTION BY

EWV.....1ST APPLICANT

JOO.....2ND APPLICANT

JUDGMENT

1. The applicants EWV and JOO are Kenyan citizens who are aged 43 and 45, respectively. The 1st applicant is a lawyer and the 2nd applicant is a clinical psychologist. They got married on 10th December 2011 at [Particulars Withheld] at Ngong Road in Nairobi. The marriage has not been blessed with a child. The couple filed this originating summons dated 6th December 2019 seeking to be allowed to adopt Baby NKJ.
2. Baby NKJ was born to one MJ at Machakos Level 5 Hospital on 23rd August 2016. On 28th September 2016 the mother abandoned the child at the ward and disappeared. The incident was reported at Machakos Police Station vide OB No. [...]. The child was subsequently committed to Mama Ngina Children's Home by the Children Court at Machakos in **Protection and Care Case No. [...]**. Police efforts to trace the child's mother or relatives were unsuccessful. On 31st August 2017 the child was declared free for adoption by the Child Welfare Society who issued certificate No. [...]. On 29th September 2017 the child was placed in the care of the applicants. She has been with them since.
3. On 17th September 2020 the court appointed FDAO as the guardian *ad litem* to the child. She and the Director of Children Services were directed to each investigate the suitability of the applicants to adopt the child and to file a report within 45 days. Each filed a report recommending the applicants to adopt the child. The reports found that the applicants were socially, emotionally and financially fit to adopt the child. The child was found to have bonded well with them.
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 her as if she 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 she 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 EWV and JOO are hereby allowed to adopt Baby NKJ.;
 - b) Baby NKJ shall henceforth be known as CSNW;
 - c) the child's date of birth shall be 23rd September 2016, and shall be presumed to be a Kenyan citizen having been abandoned at Level 5 Hospital Ward at Machakos County in Kenya;

- d) that LML and MNW are hereby appointed as the child's legal guardians in the event of the death or incapacity of the applicants before she 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 electronically NAIROBI this 25TH MARCH 2021

A.O. MUCHELULE

JUDGE