



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA

AT NAIROBI

FAMILY DIVISION

ADOPTION CAUSE NO. 7 OF 2020 (OS)

IN THE MATTER OF THE CHILDREN ACT, 2001

AND

IN THE MATTER OF AN APPLICATION FOR AN ADOPTION OF BABY FL aka EP

IN THE MATTER OF AN APPLICATION FOR ADOPTION BY

GOA.....1ST APPLICANT

BAO.....2ND APPLICANT

JUDGMENT

1. The applicants GOA and BAO are a Kenyan couple, aged 44 and 45 respectively. The 1st applicant is a civil servant while the 2nd applicant is a business-woman. The applicants got married under Luhya customary law in 2004 and solemnized their marriage on the 4th March 2019 at the S.O.S. Children Village at Buruburu in Nairobi. They have no child of their own. On 20th January 2020 they filed this Originating Summons dated 15th January 2020 seeking to adopt baby EL aka EP.

2. Baby F.L. aka E.P. is presumed to have been born on 20th July 2018. On the 21st of July 2018 he was found abandoned around Athi River area by one Damaris Kilonzo who reported the matter at Athi River Police Station vide OB No. XXXXXX/2018. The child was temporarily placed at Mahali Pa Maisha Infant Rescue Centre and on 5th February 2019 was formally committed to the same Home by Senior Resident Magistrate, Mavoko Law Courts, vide Care and Protection Cause No. 15 of 2018. On the 22nd February 2019 the child was declared free for adoption vide certificate No. XXXX by Buckner Kenya Adoption Services. This was after police efforts to trace the mother or relatives of the child were not successful. On 16th June 2019 the child was placed with the applicants for foster care. He has been with them since.

3. On 18th June 2020 the court appointed JNW as the guardian *ad litem* and ordered him and the Director of Children Services to prepare and file the requisite reports within 45 days after carrying out a social inquiry on the applicants to determine their suitability to adopt the child. The two reports were filed. Both recommended the applicants to 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 bonding had taken place well with the applicant and the other members of the 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 biological 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 GOA and BAO are hereby allowed to adopt Child F.L. aka E.P.;

b. Child F.L. aka E.P. shall henceforth be known as FTA;

c. the child's date of birth shall be 20th July 2018, shall be presumed Kenyan citizen having been found abandoned at Athi River in Machakos County in Kenya;

d. KDM and JMK are hereby appointed as the child's legal guardians 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 DELIVERED ELECTRONICALLY AT NAIROBI THIS 18TH DAY OF MARCH 2021

A.O. MUCHELULE

JUDGE