



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT MAKUENI

HIGH COURT ADOPTION CASE NO. 1 OF 2020

IN THE MATTER OF.....THE CHILDREN ACT

AND

IN THE MATTER OF THE ADOPTION OF.....BABY CM

BY

BSN.....1ST APPLICANT

SWM..... 2ND APPLICANT

RULING

1. Before me is an Originating Summons filed on 22nd February 2016 under section 4 and 154 of the Children Act 2001, section 9 of the Kenya Citizenship and Immigration Act No. 12 of 2011 and Article 14 of the Constitution of Kenya 2010 seeking the following orders –

- 1) *That the Applicants be authorized to adopt the child CM.*
- 2) *That the consent of the biological parents be dispensed with as the child was abandoned.*
- 3) *That upon making of the adoption order, the said child be known as JMS.*
- 4) *That the Registrar General do make the appropriate entry of JMS in the Adopted Children's Register.*
- 5) *That the child JMS be presumed to be a Kenyan citizen born in Kenya and that the Director of Immigration Services do issue JMS with a Kenyan passport.*
- 6) MM be appointed Legal Guardian of the child JMS.

2. The application was filed with a statement of the Applicants as well as a supporting affidavit.

3. Before this application was heard, this court through a Chamber Summons filed with the Originating Summons, appointed MM as Guardian Ad Litem of the child, and ordered the Director of Children Services to file a report on the suitability of the Applicants to adopt the child.

4. Following the above court orders the Director of Children Services filed their report on 20th October 2020 signed by Rasto Omolo – Sub-county Children Officer – Makueni county, while the Guardian Ad Litem MM filed her report on 6th January 2021. Both reports were adopted in court by their makers; and both recommend the request for adoption of the child favourably. When the matter came up in court before me, this court had the opportunity to see the applicants and the child.

5. I have considered the application, documents filed and the evidence tendered before me. I note that the child is an abandoned child and was declared free for adoption by the Child Welfare Society of Kenya.

6. I also note that the Applicants are a husband and wife, both teachers employed by the Teachers Service Commission and the child has been in their custody since 2015, and the child is currently schooling at Joy Sounds Academy. In my view, the child and the applicants have bonded well.

7. Under Articles 53(2) of the Constitution of Kenya 2010, courts are obligated to take the best interests of the child to be of paramount consideration, in any matter involving a child.

8. From the facts and evidence placed before me herein, I am of the view that allowing this application for adoption will be in the best interests of this otherwise abandoned child, as the child will be able to grow up in a family, with parents who will take care, support and guide him. I thus allow the application and order as follows:-

1) The Applicants herein are authorized to adopt the child CM.

2) The consent of the biological parents be and is hereby dispensed with as the child was abandoned.

3) The child CM upon this adoption order is henceforth known as JMS.

4) I order that the Registrar General do make the appropriate entry of JMS in the Adopted Children's Register.

5) The child JMS be and is hereby presumed to be a Kenyan citizen born in Kenya and the Director of Immigration Services should issue JMS with a Kenyan passport.

6) MM be and is hereby appointed Legal Guardian of the child JMS.

DATED, SIGNED AND DELIVERED AT MAKUENI IN OPEN COURT THIS 27TH DAY OF APRIL 2021.

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GEORGE DULU

JUDGE