



REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA
AT NAIROBI
FAMILY DIVISION, MILIMANI LAW COURTS
ADOPTION CAUSE NO. E 009 OF 2020
IN THE MATTER OF THE CHILDREN ACT, 2001
AND
IN THE MATTER OF BABY MM aka BABY EW
IKW.....APPLICANT

JUDGMENT

By Amended Originating Summons dated 23rd July 2020 and amended on 15th July 2021 brought under Sections 154, 156, 157, 158, 159, 160, 163, 164 and 170 of the Children Act, 2001 Laws of Kenya, IKW, the Applicant, has come to court seeking Adoption Order in respect of Baby MM aka Baby EW, a female child. She seeks the following orders:

1. That the Applicant be authorized to adopt Baby MM aka Baby EW a minor who is to be known as HPK and the Registrar General be directed to enter this adoption in the Register of Adoptions.
2. That LMM and EKM be appointed as Legal Guardians of Baby MM aka Baby EW.
3. That the child be presumed to have been born in Kenya.

The Originating Summons is supported by an Affidavit verifying the contents of the Originating Summons, Reports from the Children Services, Guardian Ad Litem, Report to declare the child free for adoption from Little Angels Network, Certificate declaring the child free for adoption from Little Angels Network and other relevant documents including affidavit of the proposed legal guardians giving consent to act as such.

From the records filed in court, Baby MM aka Baby EW was born on 21st January 2018 at Naivasha County Referral Hospital. That is the day her biological mother was admitted to that hospital. The baby was underweight. She was admitted at the New Born Unit at the same hospital. On 8th February 2018 her mother absconded from hospital leaving the infant behind. The matter was reported at Naivasha Police Station and recorded in the Occurrence Book (OB) as entry No. 44/22/3/2018. The Sub-County Children Officer Naivasha took up the matter and wrote to the Chief Magistrate Naivasha on 23rd March 2018 requesting for committal of the infant at Neema House Infant Rescue Centre for a period of three years. At the same time the officer also wrote to the Medical Superintendent Naivasha County Referral Hospital requesting that the infant be released to Neema House Infant Rescue Centre for care and protection. The infant was admitted to the Centre on 23rd March 2018. Police investigations yielded no results in tracing the biological parents or relatives of the infant. This was attested to by a letter from the police dated 27th September 2018. Neema House Infant Rescue Centre also confirmed that no one claimed the infant during the time she was under their care and protection.

Acting on this information and confirming the same to be true, Little Angels Network Case Committee deliberated on this matter during a meeting held on 3rd October 2018 and declared the infant free for adoption and prepared a report bearing the same date to that effect. A certificate declaring the infant free for adoption was also issued on the same date (3rd October 2018).

The Applicant is single. According to the documents in the court file, she is separated from her husband O N W. She is yet to file for a divorce. I have however come across an order from Chief Magistrate's Divorce Cause No. 456 of 2017 in the court file. It shows that one O N W petitioned for a divorce against the Applicant. It appears that the divorce has been finalised and a decree absolute was granted by the court on 24th May 2019. The Applicant does not have biological children or other adopted children.

The Applicant works with the [particulars withheld] as a Chief Technical Operator. There is a letter dated 16th July 2020 from [particulars withheld] to that effect. She also teaches. She is financially stable and documents attached to the Originating Summons show that she owns property. She has been cleared by the Directorate of Criminal Investigations from any criminal record. Her family is also supportive of her and the process of adoption. She lives in Ruai in a two bed-room house as attested to by the reports filed.

On the 28th January 2021, this court appointed VWN as Guardian Ad Litem and directed her to investigate the suitability of the Applicant to adopt the child and file a report within 45 days. A similar report was called for from the Department of Children Services. Both reports have been filed. That of the Guardian Ad Litem is dated 17th February 2021. It shows that the child is fully settled and well taken care of. She has bonded well with family and friends and enjoys good parent/child relationship with the Applicant. The report is favourable and recommends that the Applicant be allowed to adopt the child.

The report of the Department of Children Services is dated 22nd February 2021. It is signed by Ezekial Kimani, an Assistant Director Nairobi County Children Services and countersigned by Patrick Hoyd Isadia Deputy Director. The report also is favourable and recommends that the Applicant be allowed to adopt the child.

The Applicant has proposed LMM and EKM to be appoint Legal Guardians of the child. Both have sworn an affidavit on 23rd July 2020 giving their consent and willingness to act as legal guardians of Baby MM aka Baby EW.

I have read all the pleadings and the supporting documents. I have read all the reports commissioned in respect of this adoption proceedings. I have perused the relevant sections of the law on adoptions. I am satisfied that the Applicant fulfils the requirements of the law. She has fostered the child and from the reports the child has settled in well with the Applicant. She has also bonded well with the family and friends of the Applicant. The Applicant has provided the child with a home in which she will grow up protected and loved. The Applicant has means to cater for the needs of a growing child. I am satisfied that the provisions of the law under Sections 154, 156, 157, 158, 159, 160, 163, 164 and 170 of the Children Act, 2001 Laws of Kenya have been complied with. It is my considered view that it is in the best interest of Baby MM aka Baby EW that i grant the following orders:

- 1. That the Amended Originating Summons dated 23rd July 2020 and amended on 15th February 2021 be and is hereby allowed.**
- 2. That an Adoption Order be and is hereby granted allowing IKM, the Applicant to adopt Baby MM aka Baby EW.**
- 3. That the consent of the biological parents of Baby MM aka Baby EW be is hereby dispensed with pursuant to Section 159 of the Children Act.**
- 4. That Baby MM aka Baby EW shall be known as HPK.**
- 5. That the Registrar General be and is hereby directed to enter this adoption into the Register of Adoptions.**
- 6. That HPK is presumed to have been born in Kenya.**
- 7. That LMM and EKM are hereby appointed Legal Guardians of Baby HPK.**
- 8. That VWN is hereby discharged from being Guardian Ad Litem of Baby MM aka Baby EW.**

Orders shall issue accordingly.

This court wishes mother and daughter a happy and fulfilled life.

Dated, signed and delivered this 22nd April 2021.

S.N. MUTUKU

JUDGE