



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI

ADOPTION CAUSE NO. 2 OF 2020 (OS)

AND

IN THE MATTER OF THE CHILDREN'S ACT (NO. 8 OF 2001)

AND

IN THE MATTER OF BABY CM *alias* BC *alias* B

AND

AN APPLICATION FOR ORDERS OF ADOPTION OF BABY CM *alias* BC *alias* B

BY

CKG and his wife SWK

JUDGEMENT

1. By their Originating Summons dated 13.1.20 and amended on 10.5.21, CKG and his wife SWK seek to adopt a child known as Baby CM *alias* BC *alias* B. In their quest to adopt a child, the Applicants were assessed by Buckner Kenya Adoption Services, a registered adoption society and taken through the adoption process and its implications. The society's case committee sitting on 27.4.18 found the Applicants to have met the legal and social parameters required for adopting a child.
2. The reports on record indicate that the child was born on 21.12.17 at Gilgil Maternity Hospital. He was however abandoned by his biological mother, one MNT of ID No.xxxxxxxx, two days after delivery. The matter was reported at the Gilgil Police Station *vide* Occurrence Book Number 34/23/12/2017. Following the report, a vacancy was secured at Haven of Hope Baby Centre, on 23.12.17, where the child was placed under admission number 036/2017, pending committal. On 26.3.18 the child was formally committed to Haven of Hope Centre for a period of 3 years, *vide* Nakuru Children's Court Protection and Care Case Number 224 of 2018.
3. In compliance with Section 156 of the Children Act, Buckner Kenya Adoption Services *vide* its certificate serial number xxxx, declared the child free for adoption on 23.11.18. Thereafter the child was identified for the Applicants and placed with them on 5.6.19. By an order of this Court of 25.2.21, TWK was appointed as the guardian *ad litem* for the child pending the hearing and determination of the adoption application.
4. The Applicants have gone through the requisite assessments, and reports in respect thereof have been filed. Buckner Kenya Adoption Services which arranged the adoption of the child filed its report on 23.12.18. For the Director of Children Services was filed a report dated 5.5.21 by Winfred Ikinya, Assistant Director, Children Services and countersigned by Hoyd Isadia, the Deputy Director. TWK the Guardian *ad litem*, also filed her report dated 13.5.21. I have carefully assessed the said reports. They are all favourable, and recommend the proposed adoption.
5. It is noted that the child has been in continuous care and control of the Applicants for a period of about 2 years, which is more than the statutory 3 months' period required under Section 157 of the Act. The Applicants are not below the age of 25 years, nor are they older than 65 years. Both are more than 21 years older than the child. Section 158 of the Act has thus been complied with. The Applicants have been made aware of the consequences of an adoption order as well as the rights of an adopted child. They shall assume all parental rights and duties of the biological parents in respect of the child. I am satisfied that the Applicants fully understand that the adoption order is final and binding during the lifetime of the child, and that the child shall have the right to inherit their property, together with his brother. The Applicants cannot under any circumstances give up the child.
6. From the aforesaid reports the Court is further satisfied that the Applicants have the financial resources, social and emotional capability to

bring up the child. The Applicants have nominated, HKN and MNK to be the legal guardian of the child, in the event of the Applicants dying or becoming incapacitated before the child is of full age. The proposed legal guardians were however not availed to the Court for examination as to their readiness, willingness and ability to be legal guardians of the child. No reason was given to the Court for their failure to appear before Court. Accordingly, the Court is unable to appoint them as legal guardians for the child. In this regard, the Court does note that under Section 164 of the Act, appointment of a guardian in the case of a local adoption, is not mandatory.

7. Having taken into account the foregoing factors, this Court has formed the opinion that it would be in the best interests of the child that he be adopted by the Applicants. The Court is further satisfied that all the legal requirements for a local adoption have been met and makes the following Orders as prayed in the Originating Summons herein:

- a) The Applicants, CKG holder of national identity card number xxxx and his wife SWK holder of national identity card number xxxx are hereby allowed to adopt Baby CM *alias* BC *alias* B, who shall henceforth be known as BGK.
- b) The child's date of birth is hereby declared to be 21.12.17.
- c) The Child is hereby declared to be a Kenyan citizen by birth.
- d) I direct the Registrar General to enter this order in the Adoption Register.
- e) TWK the guardian *ad litem* is hereby discharged.

It is so ordered.

DATED, SIGNED AND DELIVERED IN NAIROBI THIS 31ST DAY OF MAY, 2021

M. THANDE

JUDGE

In the presence of: -

..... **for the Applicants**

..... **Court Assistant**