



REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA
AT NAIROBI
ADOPTION CAUSE NO. 12 OF 2020 (O.S)
IN THE MATTER OF THE CHILDREN'S ACT NO. 8 OF 2011
IN THE MATTER OF AN APPLICATION FOR THE ADOPTION OF A BABY B
BY
MMM AND MWM (APPLICANTS)
JUDGMENT

1. The Applicants MMM and MWM are in a monogamous marriage which was solemnized at Nairobi Pentecostal Church on 8th September, 2007 as evinced in the Certificate of Marriage Serial No. [...]. They have two children aged 11 and 14 years respectively. They wish to adopt a male child known as Baby B through the originating summons dated 17th January, 2020.
2. The pleadings indicate that the 1st Applicant MMM is a Hotelier at [particulars withheld] and MWM, the 2nd Applicant is a Relationship Manager at [particulars withheld]. They reside at Golf Course Estate Phase I within Nairobi County and both profess the Christian faith.
3. The records before the court indicate that the minor in this matter was found abandoned at Sunton in Kasarani on 20th August, 2018. The matter was reported to Kasarani Police Station where it was booked as OB No. [...]. From the police station the child was handed over to Happy Life Children's Home for care and protection pending a committal order.
4. On 3rd October, 2018 the Senior Resident Magistrate sitting in Nairobi committed the child vide P & C [...] to Happy Life Children's Home. On 1st March, 2019 Kasarani Police issued a final letter in which they confirmed that the biological parents of the child were not traced, nor did anyone come forward to claim the child. On 26th July, 2019 the Applicants took the child into foster care with a view of adopting. A foster agreement was signed on the same day.
5. Prior to the hearing of the adoption application, Kenya Children's Home Adoption Society prepared and filed a report dated 17th April, 2019. They also issued a Certificate dated 17th April, 2019 declaring the child free for adoption. The guardian ad litem JN filed a report dated 2nd September, 2020 which was favourable and recommended the adoption of the child by the Applicants.
6. An officer from the office of the Kenya Children's Homes conducted home visits and established that the applicants are financially and emotionally capable of providing for the upkeep and education of the child. She filed a report dated 5th February, 2020 recommending the adoption for reasons that the child stands to gain from the opportunities provided by becoming the son of the Applicants. He will also grow up in a stable home. The Applicants were found to have fulfilled the statutory requirements for Adoption.
7. This is a local adoption and from the report of Kenya Children's Homes the Applicants have fulfilled all the legal requirements relating to the adoption of the child. The consent of the biological parents was dispensed with since the child was abandoned at infancy and the parents could not be traced to give their consent. From the reports by Kenya Children's Homes and the guardian ad litem, the child had been under the custody and care of the applicant. The child was present virtually in court during the hearing and appeared to have bonded well with the Applicants.
8. From the foregoing, this court is of the considered view that it is in the best interest of the child to be adopted by the Applicants. Reasons wherefore, I allow the prayers sought in the Originating Summons dated 17th January, 2020 and Order as follows:

i. The Applicants Martin Maina Mwangi and Mary Wangeci Macharia be and are hereby allowed to adopt **Baby B who shall henceforth be known as **JMM**.**

ii. His date of birth shall be presumed to be on 20th April, 2018. He is presumed to have been born in Kenya in accordance with **Article 14(4)** of the **Constitution**, and the place of birth shall be Nairobi.

iii. CWM and BMM are hereby appointed the legal guardians in the event that the Applicants die, or are incapacitated by ill health.

iv. The Registrar General is directed to enter this Order in the Adopted Children's Register.

v. The Director of Immigration is hereby authorised to issue the child with a Kenyan Passport.

vi. The guardian ad litem is hereby discharged.

SIGNED DATED AND DELIVERED IN VIRTUAL COURT THIS 27TH DAY OF MAY, 2021.

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L. A. ACHODE

HIGH COURT JUDGE

In the presence of.....Advocate for the Applicants