



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI

ADOPTION CAUSE NO. 34 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 BABY FM

BY

CAO AND RNO

(APPLICANTS)

JUDGMENT

1. The Applicants CAO and RNO Ongute are in a monogamous marriage which was solemnized at the Registrars Office on 4th July, 2001 as evinced in the Certificate of Marriage Serial No. [...] They have four biological children aged 26, 24, 21 and 16 years respectively. They wish to adopt a female child known as Baby FM through the originating summons dated 18th May, 2020.
2. From the pleadings, the 1st Applicant CAO is a Project Manager at [Particulars withheld] and the 2nd Applicant RNO is a businessman dealing in real estate. They reside in Nairobi County and both profess the Christian faith.
3. The records before Court indicate that the minor in this matter was born 29th March, 2015 to SJ as indicated in the birth notification serial number [...]. The Area Assistant Chief in his letter dated 6th January 2015 indicates that the biological mother's father reported that her daughter was carrying a pregnancy believed to have been conceived by a relative. In the said letter, he notified Vihiga Children's Office that such a pregnancy could not be delivered at home on account of Maragoli culture, which abhors children born out of incest. On being born, the Children's Officer Vihiga Sub – County sought temporary accommodation for the Child at Springs of Life Children's Home pending a comittal order.
4. On 14th May, 2015 the Children's Court sitting in Kakamega committed the child vide P & C 287 of 2015 to Springs of Life Children's Home. On 26th February, 2016 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, Child Welfare Society of Kenya prepared and filed a report dated 4th September, 2015. They also issued a Certificate dated 4th September, 2015 declaring the child free for adoption. The guardian ad litem MKK filed a report dated 27th October, 2020 which was favourable and recommended the adoption of the child by the Applicants.
6. An officer from the office of the Department of Children Services 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 16th October, 2020 recommending the adoption for reasons that the child stands to gain from the opportunities provided by becoming the child of the Applicants and growing up in stable home, as opposed to growing up in an Institution. The Applicants were found to have fulfilled the statutory requirements for Adoption.
7. This is a local adoption and from the report of Department of Children Services the Applicants have fulfilled all the legal requirements relating to the adoption of the child. The consents of the biological parents SJ and DMI and their respective guardians/family VKI and AKK were granted. From the records, they were fully informed of the legal implications of proceeding with the decision to give up the child for adoption and they agreed to proceed and give up the child for adoption. 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 18th May, 2020 and Order as follows:

- i. The Applicants CAO and RNO be and are hereby allowed to adopt **Baby FM** who shall henceforth be known as **NL**.
- ii. Her date of birth is 29th March, 2015 and the place of birth is Vihiga within the Republic of Kenya as reflected in the Birth Notification Serial No. [...].
- iii. EAO is hereby appointed the legal guardian 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