



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI

ADOPTION CAUSE NO. 157 OF 2019

IN THE MATTER OF THE CHILDREN'S ACT NO. 8 OF 2011

IN THE MATTER OF AN APPLICATION FOR THE ADOPTION OF BABY FMM alias F alias FN

CMW (APPLICANT)

JUDGMENT

1. The Applicant CMW is a spinster and does not have any children of her own. She wishes to adopt the female child known as Baby FMM alias F alias FN through the summons dated 1st November, 2019. In her pleadings, the applicant states that she was an Administrator at [Particulars withheld] in Kenya but due to Covid -19 she was laid off and now operates an Uber to supplement her income. She resides in Nairobi County and professes the Christian faith.
2. The records produced in court indicate that the minor was born on 25th June 2018 to DKK as evinced by the birth certificate serial no. [...]. On 6th July, 2018 the child's biological mother approached Little Angels Network with the intention to give up the child for adoption. The reasons advanced were that she could not take care of the child, either physically, emotionally or financially. Further, that she already had two other children and neither her parents nor the other children knew of the child's existence. On 3rd August 2018 the biological mother gave her consent and the child was temporarily placed in the custody of New Life Home Trust in Nyeri for care and protection.
3. On 4th October, 2018 the Children's Court sitting in Nyeri committed the child vide P & C 153 of 2018 to New Life Home Trust. The child remained there until she was placed with the Applicant for purposes of foster care with a view of adopting on 18th December, 2018. A foster care agreement was signed on the same day.
4. Prior to the hearing of the adoption application, Little Angels Network prepared and filed a report dated 10th December, 2018. They also issued a Certificate serial No. [...] declaring the child free for adoption. The guardian ad litem RWM filed a report dated 3rd March 2021 which was favourable and recommended the adoption of the child by the Applicant
5. An officer from the office of the Director of Children Services conducted home visits and established that the applicant is financially and emotionally capable of providing for the upkeep and education of the child. She filed a report dated 13th May, 2021 recommending the adoption for reasons that the child stands to gain from the opportunities provided by a stable home if she becomes a daughter of the Applicant and that the Applicant has fulfilled the statutory requirements.
6. This is a local adoption and from the record the Applicant has fulfilled all the legal requirements relating to the adoption of the child. From the records, the birth certificate lists the father of the child to be CNM. However, the report from the office of the Director of Children Services observed that he was not the biological father of the child but was a husband to the biological mother with whom they had separated at the time of conception and birth of the child. Further, that ENK is the biological father of the subject child.
7. The biological parents of the child DKK and ENK gave their consent and agreed to give up their child for adoption. The biological mother's reason was that she is a student who is financially unstable and can therefore not raise a child. The biological father stated that he is also student who is dependent on his parents and due to his financial status and academic goals, he is not able to raise a child.
8. The child who is now three years old was in court during the virtual hearing and appeared to have bonded well with the Applicant. The Applicant appeared to be attentive towards the child and the child appeared to be free with her. They interacted well with each other.
9. I also note that the sole applicant was born on 21st May, 1984 and is 37 years old. She is therefore within the age limit eligible to adopt being an adult having attained the age of twenty-five years and is at least twenty-one years older than the child but has not attained the age of sixty-five years as provided by **Section 158 (1) (a)** of the Children's Act No. 8 of 2011.
10. I have examined the evidence herein bearing in mind that of paramount importance is the best interest of the child as required in **Article**

53 (2) of the Constitution and **Section 4 (2) & (3)** of the Children's Act. Consequently my considered view is that it is in the best interest of the child to be adopted by the Applicant. Reasons wherefore, I allow the prayers sought in the Originating Summons dated 1st November, 2019 and Order as follows:

- i. The Applicant CMW be and is hereby allowed to adopt **Baby FMM** alias **F** alias **FN** who shall henceforth be known as **IFW**.
- ii. Her date of birth is 25th June 2018 as evinced by the birth certificate serial no. [...].
- iii. CMW is hereby appointed as the legal guardian in the event that the Applicant dies, or is 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 29TH DAY OF JULY, 2021

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L. A. ACHODE

HIGH COURT JUDGE

In the presence ofAdvocate for the Applicant