



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI

ADOPTION CAUSE NO. 134 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 JT

MN (APPLICANT)

JUDGMENT

1. The Applicant MN is a spinster and does not have any children of her own. She wishes to adopt the female child known as Baby JT through the summons dated 11th October, 2019. In her pleadings, the applicant states that she is self-employed running a movie shop and a cyber café at [Particulars withheld]. She resides in Nairobi County and professes the Christian faith.

2. The records produced in court indicate that the minor was presumably born on 4th September, 2015 and was found abandoned. She was rescued by a Good Samaritan from a maize field in Mau Summit on 12th September, 2015. The matter was reported to Nakuru Police Station vide OB No. [...]. On 14th September, 2015, the child was temporarily placed in the custody of African Baby Centre for care and protection.

3. On 25th May, 2016 the Children's Court sitting in Molo committed the child vide P & C [...] to Africa Gospel Church Baby Centre. On 9th September, 2016 Nakuru Police Station 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 21st February, 2017 the Applicant took the child for purposes of foster care with a view of adopting. 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 25th November, 2016. They also issued a Certificate serial No. [...] declaring the child free for adoption. The guardian ad litem MAO filed a report 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 16th June, 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. The consent of the biological parents was dispensed with since the child was abandoned at infancy and the parents were not traced to give the necessary consent. The child who is now five and half years old was present in the virtual court during the hearing and appeared to have bonded well with the Applicant. The Applicant appeared warm towards the child and the child appeared healthy and interacted freely with the Applicant.

7. I also note that the sole applicant was born on 23rd March 1975 and is therefore 46 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.

8. 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. In the premise, I allow the prayers sought in the Originating Summons dated 11th October, 2019 and Order as follows:

i. The Applicant MN be and is hereby allowed to adopt **Baby JT** who shall henceforth be known as **CAW**.

ii. Her date of birth is 4th September, 2015 and she is presumed to have been born in Kenya in accordance with Article **14(4)** of the **Constitution**, and the place of birth shall be Nakuru.

- iii. TWM and AM are hereby appointed as the legal guardians 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