



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI

ADOPTION CAUSE NO. 30 OF 2015 (OS)

AND

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

AND

IN THE MATTER OF BABY J

AND

AN APPLICATION FOR ORDERS OF ADOPTION OF BABY JORDAN

BY

J M and his wife RMN

JUDGEMENT

1. By an amended Originating Summons dated 2.5.19 the Applicants JM and his wife RMN seek to adopt a child known as Baby J. In their quest to adopt a child, the Applicants were assessed by Child Welfare Society of Kenya a registered adoption society and taken through the adoption process and its implications. The Society's case committee sitting on 1.11.13 found the Applicants to have met the legal and social parameters required for adopting a child. The child was placed with the Applicants on 12.11.13.
2. Baby J was born on 13.7.13 at the Moi Teaching and Referral Hospital Eldoret to one EMK holder of national identity number [particulars withheld], then a student at [particulars withheld] University. Before she gave birth, E visited Child Welfare Society of Kenya with an intention to offer the child for adoption. She was counselled on the importance of a child being raised by the biological parents and the legal implications of adoption. However, she remained steadfast and her mind was made up principally because the child was conceived as a result of rape. The child was admitted at Mama Ngina Children's Home on 2.8.13 for temporary care and protection pending committal. The Children's Court at Eldoret did on 7.8.13 *vide* Protection and Care Case Number 570 of 2013 formally commit the child to the same home for a period of 6 months. The mother of the child gave a final consent on 23.9.13. The child was declared free for adoption by Child Welfare Society of Kenya on 1.11.13 *vide* certificate serial No.[particulars withheld].
3. This Court did on 13.6.19 appoint VMK as guardian *ad litem* for the child pending the hearing and determination of the adoption application, in accordance with Rule 8 of the Adoption Rules.
4. The Applicants have gone through the requisite assessments, and reports in respect thereof have been filed. Child Welfare society of Kenya which arranged the adoption of the child filed its report on dated 20.4.17. For the Director of Children Services was filed a report dated 25.9.19 by Ezekiel Kimani, Principal Children's Officer and countersigned by Mary Mbuga, Assistant and a further report dated 3.12.20. I have carefully assessed the said reports. They are all favourable, and recommend the proposed adoption. VMK, the Guardian *ad litem*, also recommended the adoption.
5. I note that the child has been in continuous care and control of the Applicant for a period of over 7 years which is more than the statutory 3 months required under Section 157 of the Act. The Applicants are not younger than 25 years nor older than 65 years. They 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 they fully understand that the adoption order is final and binding during the lifetime of the child and that they cannot under any circumstances give up the child. They also understand that the child shall have the right to inherit their property. The Applicants have demonstrated that they have the psychological and emotional capacity as well as the material resources to raise the child in a loving home environment. They propose to name the child SMJ.
6. The Applicants have nominated brother to the second applicant, PN 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 Court examined the proposed legal guardians and is satisfied as to his readiness, willingness and ability to be legal guardian of the child.

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 amended Originating Summons herein:

- a. The Applicants JM holder of national identity card number [particulars withheld] and his wife RMN holder of national identity card number [particulars withheld] are hereby allowed to adopt Baby J who shall henceforth be known as SMJ.
- b. The Child is hereby declared to be a Kenyan citizen by birth.
- c. I direct the Registrar General to enter this order in the Adoption Register.
- d. PN is hereby appointed legal guardian of the child in the event that the Applicants die or are otherwise incapacitated before the child attains the age of 18 years.
- e. VMK, the guardian *ad litem* is hereby discharged.

DATED, SIGNED and DELIVERED AT NAIROBI THIS 6TH DAY OF AUGUST, 2021

M. THANDE

JUDGE

In the presence of: -

..... **for the Applicant**

..... **Court Assistant**