



**REPUBLIC OF KENYA**

**IN THE HIGH COURT OF KENYA**

**AT NAKURU**

**IN THE MATTER OF THE APPLICATION FOR THE ADOPTION OF BABY P aka DW**

**ADOPTION CAUSE NUMBER 19 OF 2018**

SMN

BMM.....APPLICANTS

**J U D G M E N T**

1. On 12th November, 2018 the applicants SMN & BMM filed through their counsel Muchiri Gatheca Advocates an **Originating Summons (OS) under Article 14(4) and 53(2) of the Laws of Kenya, Section 157 and 160 and all enabling provisions of the Children Act, Legal Notice No. 75 of 2020.**

2. They sought orders;-

- (1) AW of P.O. Box xxxx Nakuru be appointed as Guardian ad Litem of the minor herein during the hearing of these adoption proceedings.***
- (2) The Director of Children's Services in the Ministry of Gender, Children and Social Development be directed to conduct investigations as to the suitability of the applicants to adopt the minor and submit a report on his findings to court.***
- (3) The consent of biological parents of the minor herein be dispensed with since the child was found abandoned near Nakuru Game Park by a good Samaritan and efforts to trace the parents have since proved futile.***
- (4) The applicants be authorized to adopt the said child be henceforth called DW.***
- (5) The child be presumed to be a Kenya Citizen having been found in Kenya at the time of birth.***
- (6) The Registrar General do make the appropriate entries in the Adopted children's register in respect of the minor and further the Registrar of Birth and Deaths to issue a Birth Certificate in respect thereof.***
- (7) That the court does issue such other orders as may be necessary in the best interest of the child.***
- (8) That the cost be in the cause.***

3. The OS was accompanied by the requisite documents.

4. The matter had been partially handled by A.K. Ndung'u J and I took over on 13th November, 2019. The matter was to be heard on 17th February 2020. It is then that I noted some gaps in the process and dealt with the same vide my Ruling **Adoption Cause Number 19 of 2018 In the matter of Adoption of minor CP aka DWM dated 23rd April, 2021.**

5. Pursuant to that Ruling counsel filed Further Amended OS on 18th June, 2020 where they changed the legal guardians together with their consent to act as such.

6. On 27th April, 2021 a Further Amended OS was filed seeking the same orders but indicating the new legal guardians who also are filed their affidavit and their consent to act as legal guardians.

6. The OS is supported by report by Kenya Children's Home Adoption Society (KCH).

7. It is also supported by the joint statement of the applicants made on 8th November, 2018 indicating their dates of birth as 1973 (Adoptive father) and 1975 (Adoptive mother).

8. It also gives the background of the baby that baby was an abandoned baby who was presented before the **Children's Court Nakuru vide Protection and Care Case Number 242 of 2017**. She was committed to AGC Baby Centre and Ngata under the order dated 10<sup>th</sup> May, 2017.

9. The child was freed for adoption vide certificate dated 21<sup>st</sup> February, 2018, and placed into the care of the applicants on 13<sup>th</sup> April, 2018.

10. The Director of Children Services, pursuant to the orders of 23<sup>rd</sup> April, 2020 filed a report on 23<sup>rd</sup> June, 2020 dated 17<sup>th</sup> June, 2020. The Children Officer indicated that the applicants were 2<sup>nd</sup> time adoptive parents and the 1<sup>st</sup> adoptive child had bonded well with the child herein, and who had settled well into the family. The guardian *ad litem* equally recommended the applicants as suitable parents.

11. The applicants also annexed documents in proof of their marriage, ability to provide for the child, their standing in society with recommendations from church, family and friends.

12. I heard the applicants and this being their 2<sup>nd</sup> adoption, it was evident that they were ready, willing and able to take up the full parental responsibilities for this child. Their son, adopted on 2014, had already embraced his sister at the time of the visit by the Director of Children Services.

13. The applicants have complied by all the legal requirements. This court can only salute, and support their commitment to give two (2) children who not theirs a home, a family and a heritage.

14. The orders sought are granted.

(1) The applicants be and are hereby authorized to adopt the said child to be henceforth called DW.

(2) The child be and is hereby presumed to be a Kenya Citizen.

(3) The Registrar General do make the appropriate entries in the Adopted children's register in respect of the minor and further the Registrar of Birth and Deaths to issue a Birth Certificate in respect thereof.

(4) WWM ID NO. xxxx and GTN ID NO. xxxx of P.O. Box xxxx NAKURU be and are hereby appointed as the legal guardians.

(5) The Guardian *ad Litem* is hereby discharged.

(6) That the cost be in the cause.

**DATED, SIGNED DELIVERED, VIA EMAIL THIS 23RD DAY OF SEPTEMBER, 2021.**

**MUMBUA T. MATHEKA**

**JUDGE**