



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA

AT NAKURU

ADOPTION CAUSE NUMBER 6 OF 2020

IN THE MATTER OF AN APPLICATION FOR BABY CA AKA EK

CKT.....1ST APPLICANT

LCK.....2ND APPLICANT

J U D G M E N T

1. Vide the applicants' Origination Summons dated 21st February, 2020 filed on their behalf by the firm of Obura Mbeche & Company Advocate they seek the following orders:-

- i. That. JCK of P.O. Box xxxx Nakuru be appointed as Guardian ad Litem of Baby C.A. aka EK during the hearing of these adoption proceedings.
- ii. That the Director of Children's Service in the Ministry of Home Affairs be directed to conduct investigations as to the suitability of the applicants to adopt baby CA aka EK and submit a report on their findings to court.
- iii. That the consent of the biological parent of baby CA aka EK be dispensed with since the child was abandoned so soon after birth.
- iv. That the applicants are authorized to adopt baby CA aka EK and the child be known as CK henceforth.
- v. That the Registrar General do make the appropriate entries in the Adopted Children's Register in respect of CK
- vi. That the court does issue such other orders as may be necessary in the best interest of the child.
- vii. That costs be in the cause

2. The application is brought **under Section 158 (1) (b), 157 and 160 and all other enabling provisions of the Children Act, and legal notice number 75 of 2002.**

3. The application is supported by the joint statement of the applicants sworn on 21st February, 2020, the supporting grounds for the adoption application are set out therein:-

1. That the applicants are desirous of adopting a child.
2. They approached BUCKNER Kenya Adoption Services (BKAS) who placed them with the child herein.
3. The background of the child as informed by the Buckner Kenya Adoption Service who investigated the history of the child is that;

“The infant was presumably born on 21st May, 2018 and he was found abandoned in Keringet town by a lady identified as JC on 22nd May, 2018 one day after birth. The child was taken to Keringet Hospital for medical examination. The matter was reported at Keringet Police station on 22nd May, 2018 and booked vide Occurrence Book (O.B.) Number x/xx/xx/xxxx. On 22nd May, 2018 a children's officer based Kuresoi South/North referred the case AGC Centre for Safe custody. Annexed and marked as a bundle are copies of police Letters dated 8th May, 2018 and Marked “**CKT 1 (a) and 1(b)**”. On 23rd May, 2018 a committal order was made in respect of the child by the Children's Court at Nakuru Children's Court Case

No. 63 of 2018. Annexed and marked “**CKT2**” is the committal order. The child was declared free for adoption on 21st May 2018 and the requisite certificate issued. The applicants were investigated and found to be suitable adoptive parents both by BKAS and Department Of Children Services. The applicants have filed documents in support of their marriage, ability to provide for the child, and their standing in society, including recommendations from the church, family and friends as to their suitability.”

4. I heard their oral evidence, they have been married for seven (7) years. The child has been in their foster care since he was 1½ years old, and has at time of hearing he was three (3) years old. They had bonded very well with the child and were now ready to move on to acquire parental rights over the child.

5. They appointed legal guardians for their child in case they were incapacitated by anything to take care of him, these are JN and FC, the younger brother and sister in law of CKT (The adoptive father) who are both in-laws of LCK the adoptive mother.

6. They were highly recommended by the guardian *ad litem*, and the adoption agency.

7. Having heard all the witnesses and considered the application and the supporting documents, the only issue for determination is whether the applicants are suitable adoptive parents for CA aka EK.

8. The child was a child in need of care and protection under **Section 119 of the Children Act** having been abandoned by his mother soon after birth. He was presented as such to the Molo Children’s Court, ascertained to be a child in need of care and committed to the care and protection of AGC Baby Centre Ngata on 23rd May, 2018 the committal order was issued under **Protection and Care Case Number 63 of 2018**.

9. At the time of the application the child had already spent the requisite three (3) months with the applicants.

10. The applicants were born in 1983, and 1989 respectively and fulfill the age requirements as per **Section 158 1(a) the Children Act**.

11. The consent of the birth mother could not be obtained because she could not be traced and the birth father was unknown. The consent is dispensed with under **Section 159 of the Act**. However the child having been committed to the children home the requisite consent was given by the home.

12. From the foregoing the two (2) applicants have clearly fulfilled the legal requirements for the purposes of obtaining the order for adoption of the child herein.

13. On the other side, the couple impressed me as caring couple who were ready to provide a home, parental care, love for the child, whose mother for reasons we do not know could not do so. This is something that many children who find themselves in institutional care, who I must admit, take the place of parents, need but cannot get due to the fact that not so many people come forward to adopt children.

14. This court can only salute their gesture, and affirm their commitment by granting them the orders sought.

15. The application is allowed in the following terms:

1. That the applicants be and are hereby authorized to adopt baby CA aka EK and the child be known as CK henceforth.

2. That the Registrar – General do make the appropriate entries in the Adopted Children's Register, and issue the requisite certificate in respect of CK.

3. JKN and FCC be and are hereby appointed the legal guardians of CK.

4. The guardian *ad litem* is hereby discharged.

5. Orders accordingly.

DATED, SIGNED AND DELIVERED BY EMAIL THIS 23RD DAY OF SEPTEMBER 2021

MUMBUA T MATHEKA

JUDGE

Obura Mbeche and Company Advocates for the applicants

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