



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA

AT NAIROBI

ADOPTION CAUSE NO. 109 OF 2019

IN THE MATTER OF THE CHILDREN ACT NO. 8 OF 2001

AND

IN THE MATTER OF BABY BA.

JNM.....1ST APPLICANT

VERSUS

TMN.....2ND APPLICANT

JUDGMENT

1. The two Applicants herein JNM and TMN (hereafter referred to as the 1st and 2nd Applicants respectively) have filed the Originating Summons dated 14.6.2019 seeking authority to adopt Baby A aka B. and to name her RZN (hereafter referred to as the child).
2. The Applicants are adult Kenyan Citizens born on 3.10.1957 and 1966 respectively.
3. The Applicants are a married couple who got married on 28.9.1996 under the African Christian Marriage & Divorce Act (Cap 151) which is now repealed and they have attached their marriage certificate.
4. The Applicants have three biological children and one adopted son as follows:
 - (i) VNN born on 6/7/1997
 - (ii) IMN born on 11.12.2001
 - (iii) GBN born on 6.1.2011 (adopted on 7.2.2019)
5. The Applicants have financial capacity to take care of the child. The 1st Applicant is a businessman and the 2nd applicant resigned as a receptionist at [Particulars Withheld] Hotel and joined the 1st Applicant to run the business.
6. The Applicants have attached their certificates of good conduct and medical reports to show their fitness to adopt the child.
7. The child was found abandoned on 4.8.2017 in Kawangware where her biological mother went to visit a neighbor by name Sheila Imani when the child was 1 year eight months and the mother disappeared leaving the child with Sheila.
8. The matter was reported to Muthangari Police Station vide OB No. 24/15/8/2017.
9. At the time of reporting Sheila did not hand over the child and on 10.10.2017 the child was rescued from Sheila by Dagoretti Children's Officer and handed over to Muthangari Police Station.
10. The Police did a first letter dated 11.10.2017 and the child was taken to Kenya Christian homes – Thomas Barnado House on 11/10/2017.

11. The Child was officially committed to Thomas Barnado House Vide Care and Protection Case No. 177 of 2018 on 6.6.2018 by the Nairobi Children's Court.
12. The Police were unable to trace the mother of the child and they did a final letter dated 14.1.2019.
13. The child was declared free for adoption by Kenya Children's Home Adoption Society on 23.1.2019.
14. The Applicants have been with the child since 26.2.2019 and they have bonded well
15. The following reports were filed for Court's consideration:

(i) The Director Children's Services report dated 14.10.2019

(ii) The Guardian Ad Litem's Report dated 21.11.2019.

(iii) The Kenya Children's Home Report dated 19.8.2019

16. I have considered the Originating Summons filed herein together with the annexures and the Reports and I find that the Applicants herein meet the threshold for adoption of the child.

17. Finally, in deciding this matter I am obliged to adhere to **Section 4(2)** of the Children Act 2011, which provides:

"In all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies, the best interests of the child shall be a primary consideration."

18. I allow the Originating summons dated 14.6.2019 in the following terms:

(i) THAT the 1st and 2nd Applicants JNM and TMN be and are hereby authorized to adopt the child.

(ii) THAT upon adoption the Child shall be known as RZN.

(iii) THAT the Registrar General be and is hereby directed to enter the Adoption in the Adopted Children Register.

(iv) THAT VICTORY NYAKIO NGANGA be and is hereby appointed Legal Guardian of the Child in case of incapacity of the Applicants before the child attains the age of the Majority.

(v) THAT the Guardian Ad Litem be and is hereby discharged.

DELIVERED, DATED AND SIGNED IN OPEN COURT THIS 31ST DAY OF JANUARY 2020.

ASENATH ONGERI

JUDGE OF THE HIGH COURT OF KENYA, NAIROBI.