



REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA
AT NAIROBI
ADOPTION CAUSE NO. 74 of 2019
IN THE MATTER OF THE CHILDREN ACT NO. 8 OF 2001
AND
THE MATTER OF BABY M aka BABY H and BABY E
ENM.....APPLICANT

JUDGMENT

1. The Applicant herein (hereafter referred to as the Applicant) has filed two Originating Summons in this case (Adoption Cause No. 73 of 2019 and in Adoption Cause No. 74 of 2019 seeking authority to adopt BABY M. a.k.a BABY H. (in AC No. 73/2019 and BABY E. (in Respect of A.C No. 74/2019) (hereafter referred to as the children).
2. The Applicant is an adult Kenyan Citizen born on 13th May, 1985 and works with [particulars withheld] Airlines as a Pilot.
3. The Applicant is divorced with two biological daughters N.A.G born on 21st February, 2009 and K.W. B. born on 21st April 2010.
4. The two biological daughters have filed consents to this adoption.
5. The applicant has attached her Financial Statements, Certificate of Good Conduct and Medical Reports to demonstrate her fitness to adopt the children.
6. The Child in respect of A.C No. 73 of 2019 was found abandoned in a paper bag at Githurai by one Peter Irungu (a good Samaritan) who reported the matter at Kiamumbi Police Station vide OB No. xx/17/11/2016.
7. The Police referred the child to Happy Life Children's home. The Police wrote a first letter dated 17.11.2016.
8. The child was finally committed to Happy Life Children's Home vide Protection and care Case No. 5 of 2017.
9. The Police wrote a final letter dated 21.6.2017 and the Child was declared free for adoption vide certificate No. xxxx dated 16.2.2018.
10. The following reports were filed in respect of the child in AC No. 73 of 2019.
 - (i) **Buckner Kenya Adoption Services Report dated 2.7.2019**
 - (ii) **The Director Children Services report dated 26.8.2019**
 - (iii) **The Guardian Ad Litem's Report dated 30.8.2019**
11. The child in respect of AC No. 74 of 2019 was found abandoned outside a gate in Mwiringo Estate Nairobi on 8.11.2017 and she was aged approximately four days old by a Good Samaritan called Lilian Nyakoa.
12. The Good Samaritan reported at Kasarani Police Station and the matter was recorded in OB. No. xx/8/11/2017 and the Police referred to the child to Happy Life Children's Home.

13. The child was consequently admitted into the home vide Protection and Care case No. 43 of 2018 by Nairobi Children's Court by recommendation from Kasarani Sub-county Children's Officer.

14. The Police did a final letter on 16.5.2018 confirming nobody had claimed the child.

15. The Child was declared free for adoption vide Certificate No. xxxx dated 14.6.2018 and placed with the Applicant on 21/6/2018 under **Section 159(1) (a) (i)** of the Children Act which states that:

“Abandonment may be presumed if the child appears to have been abandoned at birth or if the person or institution having care and protection of the child has neither seen nor heard from a parent or guardian of the child for a period of at least six months.”

16. The following Reports were filed in respect of the adoption in AC No. 74 of 2019.

- i. The Director Children Services report dated 23.9.2019**
- ii. Buckner Kenya Adoption Services Report dated 2.7.2019**
- iii. The Guardian Ad Litem's Report dated 30.8.2019**

17. I have considered the two Originating summons both dated 25.2.2019 filed in AC No. 73 of 2019 and AC No. 74 of 2019 in respect of the two children Baby M. alias H (in AC 73 of 2019) and Baby E (in AC 74 of 2019).

18. I find that the Applicant herein meets the threshold for adoption of the Children.

19. The OS in AC No. 74 of 2019 is allowed in the following terms:

(i) THAT the Applicant ENM be and is hereby authorized to adopt baby E.

(ii) THAT the Child shall henceforth be known as A.W.B.M.

(iii) THAT the date of Birth of the Child shall be 17.11.2016 and place of birth Nairobi County.

(iv) THAT JWM be and IS hereby appointed Legal Guardian of the Child in case of incapacity of the Applicant before the child attains the age of the Majority.

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

(vi) 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.