



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA

AT NAIROBI

ADOPTION CAUSE NO. 25 of 2019

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

AND

IN THE MATTER OF BABY NA.

SMN.....1ST APPLICANT

VS

CKN.....2ND APPLICANT

JUDGMENT

1. The two Applicants herein SNN and CKN (hereafter referred to as the 1st and 2nd Applicants) have filed the Originating Summons dated 27.2.2019 seeking among other orders authority to adopt Baby NA and to name him MNN (hereafter referred to as the child)
2. The Applicants are adult Kenyan Citizens born on 27.8.1981 and 26.3.1983 aged respectively.
3. The Applicants got married on 20.8.2011 at [*particulars withheld*] as evidence by their marriage Certificate attached to their Supporting Affidavit.
4. The 1st Applicant works as an [*particulars withheld*] earning a gross salary of Ksh.508,809 while the 2nd Applicant is a part time [*particulars withheld*] earning Ksh.124,025/-.
5. The Applicants have attached Medical Reports and Certificates of good conduct to demonstrate their fitness to adopt the child.
6. The child was found abandoned inside a carton box at Mwindi Mweusi Supermarket ad Mukuru kwa Njenga Slums on 26.7.2017.
7. A report was made to Mukuru kwa Njenga Police Station under OB No. [...] and police wrote a letter dated 26.7.2017.
8. The child was admitted at Imani Children's Home by Embakasi Sub-county children's initially.
9. The child was officially committed to the home by Nairobi Children's Court vide Protection and Care Case No. 114 of 2018 on 11.4.2018.
10. The police did a final letter dated 20.7.2018 that nobody had claimed the child and the child was declared free for adoption by case Committee of Buckner Adoption Society vide Certificate No. [...] dated 3.8.2018.
11. The child was placed with the Applicants on 2.9.2018 and they have bonded well.
12. The following reports were filed in respect of this Adoption.

(i) The Guardian Ad Litem's Report dated 10.10.2019

(ii) **The Director Children's Services report dated 29.7..2019**

(iii) **Buckner Kenya Adoption Services Report dated 11.6.2019**

13. I find that the Applicants meet the threshold for adoption of the child.

14. I also find that the Reports are favourable and it is for the best interest of the child that this Adoption be allowed.

15. In **AOO & 6 others v Attorney General & another [2017]** eKLR that:

'Children need special protection because they are among the most vulnerable members of society. They are dependent on others - their parents and families, or the state when these fail - for care and protection. As a result, the drafters of our Constitution made children's rights a priority - and stated that the best interests of a child are the overriding concern when it comes to any matter affecting a child. Thus, the inclusion in the Bill of Rights of a provision on the rights of the child was an important development for Kenyan children...'

16. **Section 4(2) (3)** of the Children Act provides that: -

(2) 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. (The same is reiterated by Article 3 of the United Nations Convention on the Rights of the Child)

(3) All judicial and administrative institutions, and all persons acting in the name of these institutions, where they are exercising any powers conferred by this Act shall treat the interests of the child as the first and paramount consideration to the extent that this is consistent with adopting a course of action calculated to—

(a) Safeguard and promote the rights and welfare of the child;

(b) Conserve and promote the welfare of the child;

(c) Secure for the child such guidance and correction as is necessary for the welfare of the child and in the public interest.'

17. The Originating Summons dated 27.2.2019 is accordingly allowed in the following terms:

(i) THAT the Applicants SNN and CKN be and are hereby authorized to adopt Baby N.

(ii) THAT the Child shall henceforth be known as MNN

(iii) THAT the child's date of birth shall be 26.7.2017 and the Place of birth Nairobi County.

(i) THAT the child shall be presumed to be a Kenyan Citizen.

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

(iii) TIM and NMR be and are hereby appointed Legal Guardians of the Child in case of incapacity of the Applicants before the child attains the age of the Majority.

(iv) 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.