



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI

ADOPTION CAUSE NO. 31 OF 2019

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

AND

IN THE MATTER OF BABY D. I

AWK.APPLICANT

JUDGMENT

1. The Applicant herein AWK (hereafter referred to as the Applicant) by Originating Summons dated 14.3.2019 is seeking authority to adopt the Child D. I. and to name him SNM.
2. The Applicant is a single parent with one biological Child born on 14th August 2011 now aged about 7 years.
3. The Applicant works within SOS Children's Villages International as the Africa Correspondent.
4. The Applicant has attached her Pay-slips as evidence that she is financially able to look after the child and her biological son.
5. She had attached a Certificate of good conduct and Medical Report to show she has no criminal record or medical condition.
6. The Child's biological mother was a minor at the time she delivered Baby D. I on 13.2.2018. The child was also born out of incest by cousins.
7. She approached Kenya Children's home and expressed her desire to give up the child and with the help of her father, PA S She offered the child for adoption and she signed the Certificate of acknowledgement which she and her father signed.
8. The child was committed to Springs of life Children's Home vide Care and Protection (P&C) Case No. 3 of 2018 on 16.2.2018 by Kakamega Children's Court.
9. The Child was declared free for adoption by the Case Committee of the Kenya Children's home Adoption Society on 16.5.2018 vide Certificate No. 1467 issued pursuant to section 156 (1) of the Children's Act 2001.
10. The following reports were issued in respect of this adoption:
 - (i) **The Director Children Services report dated 10.7.2018.**
 - (ii) **The Guardian Ad Litem's Report dated 22.10.2019 and**
 - (iii) **The Kenya Children's Homes Report dated 13.3.2019.**
11. The reports are all in favor of Adoption in the best interests of the child.
12. I find that the Applicant meets the threshold for adoption of the child.
13. The Applicant is a single parent of a Boy child and hence there are special circumstances for adoption of a male child though she is single and female.

14. In the case of; **In Re Adoption of Baby JKM (2017 e KLR)**, Judge Achode allowed a female applicant to adopt a male child who was found abandoned somewhere in some village. The court took into consideration special circumstances as per the guidelines of the National Adoption Committee dated 13th January 2010 pursuant to **Section 155** of the Children's Act for a female applicant wishing to adopt a male child. The elements are particularized as hereunder:

- (i) When the child is a relative.
- (ii) When the child has special needs and applicant is willing and has special capacity to take care of the child.
- (iii) Where the applicant has adopted or has another biological child or children over whom she is willingly exercising parental responsibility.
- (iv) Where the child being adopted has a sibling who is also adopted by the applicant.
- (v) Where the applicant is the only person available to adopt the child and
- (vi) Where the applicant is the legal guardian of the child or children appointed by will or in adoption proceedings and the parents dies or become permanently incapacitated.

15. Similar position was held in the case of; **In Re Baby J.I (minor) (2013) eKLR** and **In Re G.W (baby) (2008) eKLR**.

16. The Originating summons dated 14.3, 2019 be and is hereby allowed in the following terms.

- (i) THAT the Applicant AWK be and is hereby authorized to adopt Baby DI and to name him SNM.**
- (ii) THAT the Child be and is hereby presumed a Kenyan Citizen.**
- (iii) THAT the date of birth of the child is 13.2.2018 and the place of birth Kakamega County Referral Hospital.**
- (iv) THAT the Registrar General be and is hereby directed to enter the Adoption in the Adopted Children Register.**
- (v) THAT the Director Immigration be and is hereby directed to issue the child with a Kenyan Passport.**
- (vi) THAT CNK be and is hereby appointed Legal Guardian of the child in case of incapacity by the Applicant before the child attains the age of the majority.**
- (vii) THAT the Guardian Ad Litem be and is hereby discharged.**

Orders to issue accordingly.

DELIVERED, DATED AND SIGNED IN OPEN COURT THIS 24TH DAY OF JANUARY 2020.

ASENATH ONGERI

JUDGE OF THE HIGH COURT OF KENYA, NAIROBI.