



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI

ADOPTION CAUSE NO. 43 OF 2019 (OS)

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

AND

IN THE MATTER OF ADOPTION OF BABY M AKA MI

BY

DIM & CKM (APPLICANTS)

JUDGEMENT

1. Before court is an Originating Summons dated the 4th of April 2019, seeking for orders; -

- a. That the applicants **DIM & CKM** be authorised to adopt **BABY M AKA MI**
- b. That upon adoption the child be known as **NNMI**
- c. That the Registrar- General do make appropriate entries in the Adopted Children register.
- d. That **LKM & NNM** be appointed legal guardians in respect of the child to be known as **NNMI**

2. Pursuant to an application dated 4th April 2019 on the 13th June, 2018 the court appointed **FN** as guardian *ad litem* and required the said guardian *ad litem* and the Director of Children's Services Department to conduct a social enquiry on the Applicants' fitness and the prevailing circumstances relating to this adoption and file their respective reports.

3. The necessary reports referred to in paragraph 2 above were filed in court on 27th of August 2019 and 23rd October 2019 respectively. Both reports highly recommend the Applicants as suitable and fit persons to be considered for the adoption.

4. The court was informed that the 1st applicant is an IT Assistant and is aged 34 years, whereas the 2nd Applicant is a Property Manager and aged 30 years. The parties entered into a Christian marriage on the 31st of August 2013. They have two children of their own. The first child is aged about 4 years and the 2nd about 2 months old. After the first child the 2nd applicant had difficulties conceiving. The second child came while the applicants were in the process of this adoption. They considered both situations a blessing and opted to proceed with the adoption.

5. It is the desire of the applicants to provide a home to the child herein. The two have adequate income. They currently reside at in a two bedroomed house in Gitaru in Kikuyu. They own a house which is rented out and other properties as well.

6. The child, **M** is presumed to have been born on the 2nd of August 2017. The child was found abandoned by a good Samaritan at Ol kalao Town on the 17th of March 2018 and the matter reported to Ol Kalao police station. The child was committed to Neema Infant Rescue Centre as a child in need of care and protection on 29th March 2018. Efforts to trace the parents of the child were unsuccessful and the police issued a letter to that effect on 1st October 2018. The child was declared free for adoption on the 3rd of October 2018. Later the child was placed with the Applicants for foster care from the 25th October 2018 pending formal adoption. The child is said to be healthy and jovial and has bonded well with both the intended parents and siblings.

7. The proposed legal guardians **LKM & NNM**, consented to being appointed as such and are ready to take up responsibility in the event the applicants are not there or are both incapacitated before the minor attains age of majority.

8. Against the above background I have formed the opinion that the Applicants **DIM & CKM**, meet the legal requirement necessary for an adoption order to issue. They are suitable and fit persons to adopt the child herein. The said adoption will no doubt be to the best interest of the child, who has found parents, a home and the much-needed love, care and attention he deserves.

9. The adoptive parents will henceforth obtain the rights and obligation of parents towards the child who now becomes their full responsibility with all rights of a child under the law, including the right to inherit the applicants.

10. On the other hand, the legal guardians will take full responsibility over the child should the applicants both die or are incapacitated before the minor is of full age.

11. Consequently, I make the following orders.

a. That the Applicants DIM & CKM be and are hereby authorised to adopt Baby M AKA MI

a. That the child's name will upon this adoption be NNMI

b. That LKM & NNM be and are hereby appointed legal guardians of the child now to be known as NNMI

c. That the Registrar General do enter this adoption in the adoption register.

b. The guardian *ad litem* be and is hereby discharged from the duties earlier conferred upon her by the court.

SIGNED DATED and DELIVERED in court this day of Day of **23rd January, 2020.**

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ALI-ARONI

JUDGE

In the presence of:

Counsel for the Applicant.....