



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI

ADOPTION CAUSE NO. 48 of 2019

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

AND

IN THE MATTER OF BABY PI

PMM.....1ST APPLICANT

VERSUS

MW.....2ND APPLICANT

JUDGMENT

1. The Applicants in this case PMM and MW (hereafter referred to as the 1st and 2nd Applicants respectively) have filed this Originating Summons dated 11.3.2019 seeking authority to adopt Baby PI and to name him MZWM (hereafter referred to as the child).
2. The Originating Summons is supported by the statement in support of the by the 1st and 2nd Applicants of even date.
3. The 1st and 2nd Applicants are adult Kenyans born on 10.12.1963 and 1.6.1966 respectively.
4. The 1st and 2nd Applicants got married under Kikuyu Customary Law in 2009 and on 6.4.2011 they solemnized their marriage and were issued with a certificate of marriage which they have annexed to the Supporting Affidavit.
5. The 1st and 2nd Applicants have one adopted child OJM born on 5.10.2020.
6. The first Applicant is a Hotelier working at [particulars withheld] while the 2nd Applicant works with [particulars withheld] as Senior Office Administrator. They have attached their pay slips and bank statement to demonstrate their financial ability to take care of the child.
7. The Applicants have also attached Certificates of good conduct and medical Reports to show they have no previous Criminal record and they are in good health.
8. The child was found abandoned at Saba saba Area in Kalyole where the mother left her with a neighbor and went away for 6 months.
9. The Child was presumed born on 11.1.2007.
10. When the mother did not show up, the matter was reported at Kayole Police Station on 11.7.2007 vide OB No. [...].
11. The child was referred to Imani Children's home at Kayole by Police on 11.7.2007.
12. The child was committed to the home vide care No. 255 of 2008 on 12.9.2008.
13. The child was declared free for adoption vide Certificate No. [...] dated 3.8.2016 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.”

14. The Police wrote a letter dated 11.7.2007.

15. The child was placed with the 1st and 2nd Applicants on 2.9.2018.

16. The following Reports were filed in respect of the child:

(i) Buckner Kenya Adoption Services Report dated 25.6.2019

(ii) The Director Children's Services report dated 26.9.2019

(iii) The Guardian Ad Litem's Report dated 5.8.2019

17. I find that the Reports are all favourable and they recommend adoption of the child by the Applicants. I also find that's applicants have met the threshold for adoption of the child and I allow the Originating Summons dated 11.3.2019 in the following terms:

(i) THAT the Applicants be and are hereby authorized to adopt Baby P.I

(ii) THAT the Child shall henceforth be known as MZWM.

(iii) THAT the Consent of the Biological parents be dispensed with.

(iv) THAT the date of birth of the child shall be 11.1.2007 and the place of birth Nairobi County.

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

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

(iii) THAT AWN 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.

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

DELIVERED, DATED AND SIGNED IN OPEN COURT THIS 21ST DAY OF FEBRUARY 2020.

ASENATH ONGERI

JUDGE OF THE HIGH COURT OF KENYA, NAIROBI.