



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA

AT NAKURU

ADOPTION CAUSE NUMBER 22 OF 2019

IN THE MATTER OF AN APPLICATION FOR ADOPTION OF NL

AND

OO.....1ST APPLICANT

EWK.....2ND APPLICANT

J U D G M E N T

1. What is before me is the Originating Summons dated 8th August, 2019 brought under **Section 158 (1), (b), 157 and 160 and all other enabling provisions of the Children Act.**

2. It seeks orders;

1. **THAT** KNT of P.O. Box 1226, NAKURU be appointed as Guardian ad Litem of BABY NL during the hearing of these adoption proceedings.
2. **THAT** the Director of Children's Services in the Ministry of Home Affairs be directed to conduct investigations as to the suitability of the applicants to adopt BABY NL and submit a report on their findings to court.
3. **THAT** the consent of the biological parent of BABY NL be dispensed with since the child was abandoned so soon after birth.
4. **THAT** the applicants be authorized to adopt BABY NL and the child be known as JIC henceforth.
5. **THAT** the Registrar-General do make the appropriate entries in the adopted children's register in respect of BABT JIC.
6. **THAT** the court does issue such other orders as may be necessary in the best interest of the child.
7. **THAT** costs be in the cause.

3. It is supported by the joint statement of the applicants. Sworn on 8th August, 2018 and the annexures thereto, which demonstrate that; ***THAT*** BABY NL an infant of male sex was born on or about 1st September, 2017. According to investigations by Buckner Kenya Adoption Services the infant was found abandoned at GFB KNH by his mother at the Kenyatta National Hospital four days after birth. The matter was reported at Kenyatta Police Station, Nairobi on 13th September, 2017 and booked in the vide Occurrence Book (OB). On 31st October 2017 a Children's referred the case to House of Imani Children's Home for safe custody. On 6th June, 2018 a Committal Order was made in respect of the child by the Children's Court at Nakuru Children's Court. The committal order and bundle is copies of Police Letters are annexed.

The child was declared free for adoption by Buckner Kenya Adoption Services (BKAS) on 3rd August 2018 as per the annexed copy of the Certificate of Declaration and a copy of Report declaring the child free for adoption.

The applicants are law abiding Kenyan Citizens, EWK and OCO a born on 24th December 1987 and 5th February 1979 respectively. They have been married since 1st November 2017 at Customary Civil Registrar Nakuru copy of marriage certificate annexed. They are capable of assuming financial responsibilities for the infant's medical care, education and general upkeep as each of them is gainfully employed. They have a home with comfortable environment, which is suitable for nurturing the child and ensuring his full development. They have been

investigated by Buckner Kenya Adoption Services and found to be fit adoptive parents as per the copies of the Assessment Reports and Certificate Acknowledgement.

They are physically and emotionally fit and healthy to parent the child as per the annexed Medical particulars in verification.

They have had care and control of the infant since 1st September 2018 and both Buckner Kenya Adoption Services and the Children's Home have no objection to their application and annexed are bundles copies of Care and Placement Agreement and Placement Plan Form.

They have also appointed MISS JNK as the legal guardian of the child. Her letter of consent is annexed.

4. The guardian *ad litem* was appointed earlier in the matter and the Director of Children Services fled the social inquiry report.

5. I heard oral evidence from the adoptive parents and the legal guardian.

6. I read the recommendation from the Director of Children Services. The report verifies the information in the Origination Summons.

7. I have considered all the evidence, perused all the documents and I am persuaded that the applicants will provide a suitable home and parentage for the child herein. I allow the Originating Summons and grant the following prayers;

1. **THAT the applicants be authorized to adopt BABY NL and the child be known as JIC henceforth.**
2. **THAT the Registrar-General do make appropriate entries in the adopted children's register in respect of BABY JIC.**
3. **JNK is appointed Legal Guardian.**
4. **The Guardian ad Litem is discharged.**
5. **Costs in the cause.**

Dated, signed and delivered via email Nakuru this 22nd day of June, 2020.

Mumbua Matheka

Judge

Edna and Martin Court Assistants

Mrs. Mbeche for Obura Mbeche & Co. Advocates for applicants