



REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA
AT NAIROBI
FAMILY AND PROBATE DIVISION
ADOPTION CAUSE NO. 85 OF 2018
IN THE MATTER OF THE CHILDREN ACT (ACT NO. 8 OF 2001)

AND

IN THE MATTER OF BABY MBN(MINOR)

AND

IN THE MATTER OF AN APPLICATION FOR ADOPTION

BY

LNN & LNN (APPLICANTS)

JUDGMENT

Background:

1. The applicants **LNN & LNN** are husband and wife having solemnised their marriage on the 5th of August 1995. They are blessed with two biological children aged between 23 & 15 years and seek to adopt the subject herein as their third child. The couple are aged 56 and 49 years respectively.
2. The applicants who are both pastors found the minor in a corner of their [particulars withheld] Church in Roysambu in Nairobi County on the 24th June, 2011 during an overnight prayer vigil. They Initially announced the incident to their congregation but no one came forth to claim the child, after which they reported the incident to Kasarani Police Station. The matter was recorded under O.B. NO. xx/xx/06/2011. At the point the applicants were given an option to keep the child as investigations were underway or the child be referred to a children's home. They opted to stay with the child and have lived with the child ever since. A letter dated the 8th of August, 2012 from Kasarani Police Station confirmed that no person had claimed the child and efforts to trace the parents did not yield any results.
3. It is not clear from the documents filed before court the manner in which the applicants expressed their interest in adopting the child, however the child was declared free for adoption by Change Trust Adoption Society on the 21st of August, 2018.
4. Now before court is an application for adoption of **Baby MBN** by way of an Originating Summons dated the 28th of June, 2018, brought pursuant to **Sections 154, 156(1), 157(1), 158(1)a(i), 159(1)a (1) (c), (4), (6), (7), 160 (1), (2), (4), 163,164 (1) & 170** of the Children's Act. The Applicants seek for orders to adopt the minor and upon such adoption the child be known as **MBN**; they also seek to have **JWM & JMM** be appointed as legal guardians of the child in the event the applicants are incapacitated or are no more and the child still unable to fend for himself, further for the Registrar General do make appropriate entries in the Adoption Register.
5. Pursuant to a Chamber Summons dated 28th June 2018, as amended on the 11th of October, 2018 the court appointed **GWM** as a guardian *ad litem*, who by law is required to safeguard the interest of the minor as these proceedings are ongoing, investigate and report the circumstances pertinent to the adoption, intervene on behalf of the child should a need arise, make recommendations towards the adoption and undertake any other task the court may require.
6. On the said date the court also directed the Director of the Children's Services Department in Nairobi and the said guardian *ad litem* to investigate the Applicants' fitness to adopt and file their respective reports

Reports:

7. Director of Children's Service Report

The report is dated 22nd of October, 2019. It gives a detailed history of the applicants' background. The 1st applicant is currently a pastor and an administrator of Prayer Beyond Boundaries Ministries, founded by the 2nd applicant who is a senior Pastor in the same establishment. Together they have an income of Kshs. 400,000. The applicants reside in a Four bedroomed house at [particulars withheld] Estate, in Nairobi, with the minor and their two biological children. The applicants having rescued the child appear to have developed some attachment to him and jointly feel that they need to adopt him so that they may secure his life and for the child's best interest. Their two children are in agreement and have consented to the adoption.

The director upon investigations highly recommended the adoption.

Guardian Ad litem's Report:

8. The Guardian *ad litem*'s report is dated the 6th of December, 2018 and gives details similar to the Director of Children's Services report. The guardian *ad litem* observed that the child is happy and well taken care of by the adoptive parents, gets on well with the other children and has bonded very well with the entire family. It is her view that the adoption is for the best interest of the child.

9. The court is of the view that the applicants have met all the necessary requirements of the law to be considered for this adoption and coupled with the above mentioned reports by the Director of Children's Services and the guardian *ad litem*, it has formed the opinion that the adoption will be in the best interest of the child.

10. The court also finds it necessary to draw the applicants' attention to the fact that as they acquire parental responsibility over the child, the child at the same time will have rights as their other children under the law including the right of inheritance from his new parents.

11. As for the proposed legal guardian both have consented to be appointment as such and are aware of their obligation should the need arise.

12. Consequently, the court orders as follows:

- (i) **LNN & LNN** be and are hereby authorised to adopt **BABY MBN**.
- (ii) The Registrar General do register the adoption and issue a certificate.
- (iii) **JWM & JMM** are hereby jointly appointed as Legal Guardians to **MBN**.
- (iv) The guardian *ad litem* **GWM** is hereby discharge from the obligation earlier bestowed upon him by the court.

SIGNED DATED and DELIVERED in open court this 11th day of June 2020.

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ALI-ARONI

JUDGE