



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT MOMBASA

ADOPTION CAUSE NO. 16 OF 2017 (OS)

AND

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

AND

IN THE MATTER OF BABY GJ also known as GJ

AND

AN APPLICATION FOR ORDERS OF ADOPTION OF BABY GJ also known as GJ

BY

KKK and his wife JKK

JUDGEMENT

1. By the Originating Summons dated 28.7.17 and amended on 16.2.18, KKK and his wife JKK, the Applicants herein seek to adopt a child known as Baby GJ also known as GJ. The Applicants have been married for since 1996 but have no child of their own. The Applicants were assessed by Little Angels Network, a registered adoption society and taken through the adoption process and its implications. The society's case committee sitting on 29.5.15 approved them as suitable to adopt a child of their preferred age and sex.

2. The reports on record indicate that the child, who is estimated to have been born on 6.6.14. He was found abandoned at Mtwapa in Kilifi County by one Salma Ibrahim and one Fatma Ali. They reported the matter at the Mtwapa Police Station *vide* Occurrence Book Number [xxxx]. Following the report, the sub-county children's office in Kilifi arranged for the placement of the child at Good Life Orphanage on 7/6/14, pending committal. The child was on 23.7.15, *vide* Kilifi Children's Court Protection and Care Case Number 52/15, formally committed to the same orphanage for a period of 3 years. Mtwapa Police Station in a final letter dated 2.2.15 confirmed that since the child was reported abandoned on 7.6.14, no one had come forward to claim her.

3. In compliance with Section 156 of the Children Act, Little Angels Network *vide* its certificate serial number 001685, declared the child free for adoption on 7.8.15. Thereafter the child was identified for the Applicants and was placed with them on 25.9.15. By an order of this Court of 22.11.17, SBK was appointed as the guardian *ad litem* for the Baby A pending the hearing and determination of the adoption application.

4. The Applicants have gone through the requisite assessments and reports in respect thereof have been filed. Little Angels Network which arranged the adoption of the child filed its report on 26.9.18. The report by Luke Papa, the Kilifi South Sub-County Children's Officer, for the Director of Children Services was filed on 19.3.18, while that of SBK the Guardian *ad litem*, was filed on 7.3.18. All these reports are favourable and recommend the proposed adoption.

5. I have carefully assessed the reports filed herein. I note that the child has been in continuous care and control of the Applicants for a period of about 5 years, which is more than the statutory 3 months required under Section 157 of the Act. The Applicants are not below the age of 25 years, nor are they older than 65 years. Both are more than 21 years older than the child. Section 158 of the Act has thus been complied with. The Applicants have been made aware of the consequences of an adoption order as well as the rights of an adopted child. They shall assume all parental rights and duties of the biological parents in respect of the child. I am satisfied that the Applicants fully understand that the adoption order is final and binding during the lifetime of the child, and that the child shall have the right to inherit their property. The Applicants cannot under any circumstances give up the child.

6. From the aforesaid reports the Court is further satisfied that the Applicants have the financial resources, social and emotional capability to

bring up the child. The Applicants have nominated the male Applicant's younger brother KKK2 to be the legal guardian of the child in the event of the Applicants dying or becoming incapacitated before the child is of full age. The Court examined the proposed legal guardian and is satisfied as to his readiness, willingness and ability to be legal guardian of the child.

7. Having taken into account the foregoing factors, this Court has formed the opinion that it would be in the best interests of the child that he is adopted by the Applicants. The Court is further satisfied that all the legal requirements for a local adoption have been met and makes the following Orders as prayed in the Originating Summons herein:

- a) The Applicants, KKK holder of national identity card number [XXXX] and his wife JKK holder of national identity card number [XXXX] are hereby allowed to adopt Baby GJ also known as GJ, who shall henceforth be known as AKK.
- b) The child's date of birth is hereby declared to be 6.6.14.
- c) The Child is hereby declared to be a Kenyan citizen by birth.
- d) KKK2 holder of national identity card number [XXXX] is hereby appointed legal guardian of the child in the event that the Applicants die or are otherwise incapacitated before the child attains the age of eighteen years.
- e) I direct the Registrar General to enter this order in the Adoption Register.
- f) SBK the guardian *ad litem* is hereby discharged.

It is so ordered.

DATED, SIGNED AND DELIVERED AT MOMBASA THIS 30TH DAY OF JULY 2020

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M. THANDE

JUDGE

In the presence of: -

..... **for the Applicants**

..... **Court Assistant**