



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI

ADOPTION CAUSE NO. 117 OF 2019 (O.S)

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

AND

IN THE MATTER OF AN APPLICATION FOR THE ADOPTION OF BABY LN

BY

FSO AND AMN (APPLICANTS)

JUDGMENT

1. The Applicants FSO and AMN are in a monogamous marriage which was solemnized at [Particulars Withheld] Catholic Church, Karatina on 15th January, 2011. A copy of a Certificate of Marriage of serial number 6***** is on record. They have no child of their own but have previously adopted a female child known as EB. They wish to adopt the female child known as Baby LN through the Originating Summons dated 30th August, 2019.
2. From the pleadings the court gathers that the male applicant is a lab technician at [Particulars Withheld] High School whereas the female applicant is a school nurse at [Particulars Withheld] Girls Secondary School. They reside in a two-bedroom house within the staff quarters at [Particulars Withheld] Girls Secondary School, Kiambu County and both profess the Christian faith.
3. Records indicate that the minor in this matter was abandoned by her mother within Mutuini Area, Nairobi on 13th November, 2011. She was rescued by Good Samaritans who reported the matter to Dagoretti Police Post where it was booked vide OB. No. 18/13/4/2014. The child was referred to Dagoretti Children's Centre for care and protection. On 25th February, 2015 she was committed to the care of the Dagoretti Children's Centre by the Children's Court at Nairobi vide P&C Case No. 50/2015.
4. The Officer Commanding Tigoni Police Station issued a final letter dated 18th March, 2015 in which he confirmed that no one had come forward to claim the child and attempts to trace her kin had borne no fruits. On 27th April, 2015 the Applicants took the child into foster care with a view of adopting upon signing a Care Agreement. Since then the child has been in the continuous care and custody of the Applicants.
5. Prior to the hearing of the adoption application, Little Angels Network prepared and filed a report dated 29th October, 2014. They had also issued a Certificate of Serial No. 0***** dated 26th June, 2015 declaring the child free for adoption. The guardian ad litem WN filed a report dated 20th June, 2020 which was favorable and recommended the adoption of the child by the Applicants.
6. An officer from the office of the Director of Children Services conducted home visits and established that the Applicants are financially and emotionally capable of providing for the up keep and education of the child. She filed a report dated 24th January, 2020 recommending the adoption for reasons that the child stands to gain by becoming the daughter of the Applicants as opposed to living all her life in an institution as an abandoned child.
7. She stated that the Applicants have met all the requirements for a local adoption as provided in the statute and that the minor is thriving well in the family. Further that they had by an adoption order granted in 2014 adopted a child who is now aged 7 years and thriving well in the family. This she says will give the minor the added advantage of a sibling.
8. The orders sought by the Applicants herein relate to a child. In law, in any matter concerning a child, the best interests of the child are what is of paramount importance as provided for under **Article 53(2)** of the **Constitution** and amplified by **section 4(3)** of the **Children Act No. 8 of 2001**.
9. This is a local adoption and the Applicants, in my opinion, have fulfilled the requirements for a local adoption under the **Children Act, 2001**. They have proved during the placement period prior to adoption that they are capable of taking on the challenge of raising the child in

this matter. I am convinced that the Applicants meet the social parameters that are considered relevant to their taking on parental responsibility and custody of the child in this matter on a permanent basis as would be conferred by the adoption order sought.

10. The consent of the biological parents was dispensed with since the child was abandoned at infancy and the parents could not be traced to give the consent. The Applicants' family members are aware of the proposed adoption and support it.

11. CNM has by a Guardian's Letter of Consent dated 29th August, 2018 consented to be appointed as the legal guardian in the event that the Applicants are incapacitated and cannot care for the child.

12. After a careful assessment of the reports filed herein and from the observation of the interaction of the Applicants and the child during the virtual hearing, this court has formed the opinion that it would be in the best interest of the child to be adopted by the Applicants. Not only does the child gain a loving family, she also gains the added advantage of a sibling.

13. Reasons wherefore, I allow the prayers sought in the Originating Summons dated 30th August, 2019 and order as follows:

- i. The Applicants, FSO and ANM be and are hereby allowed to adopt **Baby LN** who shall henceforth be known as **JKN**.
- ii. Her date of birth shall be 11th April, 2014. She is presumed to have been born in Kenya in accordance with **Article 14(4)** of the **Constitution**, and the place of birth shall be Dagoretti.
- iii. CNM is hereby appointed as the legal guardian of the child in the event that the Applicants die, or are incapacitated by ill-health.
- iv. The Registrar General is directed to enter this order in the Adoption Register.
- v. The Director of Immigration is hereby authorised to issue the child with a Kenyan passport.
- vi. The guardian ad litem is hereby discharged.

It is so ordered.

DATED SIGNED AND DELIVERED IN VIRTUAL COURT THIS 27TH DAY OF JULY, 2020.

.....

L. A. ACHODE

HIGH COURT JUDGE