



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA

AT NAIROBI

ADOPTION CAUSE NO. 120 OF 2019

IN THE MATTER OF THE CHILDREN ACT NO. 8 OF 2011

AND

IN THE MATTER OF THE ADOPTION OF BABY M alias BABY M (CHILD)

BY

PNM (APPLICANT)

JUDGMENT

1. The Applicant PNM is a Kenyan citizen. She is single and has never been married and has no child of her own. She wishes as a single Applicant to adopt the child known as Baby M alias Baby M, a minor of the female sex, through the Originating Summons dated 4th September, 2019.
2. From the pleadings, the court gathers that the Applicant is a medical doctor specialising as an Obstetrician and Gynaecologist and is currently employed at [*particulars withheld*]. She is financially stable. She resides in a four bedroom apartment in [*particulars withheld*] area, Nairobi and professes the Christian faith.
3. The child who is the subject of this adoption was abandoned on 7th April, 2018 when an unknown woman approached one Sharon Kavesa at a bus stop in Nairobi. The unknown woman left the baby with the said Sharon while she left to perform an M-Pesa transaction, but she did not return. Sharon reported the matter at Gigiri Police Station where it was booked vide OB. No. [...]. The child was referred to The Nest Children's Home where she was admitted for care and protection.
4. On 13th June, 2018 the child was committed to the care and custody of The Nest Children's Home by the Children's Court at Nairobi vide P&C Case No. 221 of 2018. The O.C.S Gigiri Police Station issued a final letter dated 19th October, 2018 in which he confirmed that no one had come forward to claim the child and efforts to trace her kin had proved futile. Any appropriate action towards the best interest of the child was recommended.
5. On 21st December, 2018 the Applicant took the child into foster care with a view of adopting, upon signing an Infant/Child Release Agreement. Since then the child has been in the continuous care and custody of the Applicant.
6. Prior to the hearing of the adoption application, Little Angels Network prepared and filed a report dated 10th December, 2018. They had also issued a Certificate of Serial No. [...] dated 10th December, 2018 declaring the child free for adoption. The guardian ad litem Eddah Awuor Ochieng' filed a report dated 27th January, 2020 which was favourable and recommended the adoption of the child by the Applicant for reasons that she had shown parental commitment and willingness to give the child a permanent, safe and loving home.
7. An officer from the office of the Director of Children Services conducted home visits and established that the Applicant is financially and emotionally capable of providing for the upkeep and education of the child. She filed a report dated 21st February, 2020 recommending the adoption for reasons that the child stands to gain from the opportunities provided by becoming the daughter of the Applicant as opposed to living all her life in an institution as an abandoned child.
8. I note that this is a local adoption and the Applicant in my opinion, has fulfilled all the requirements for a local adoption as provided under the **Children Act No. 8 of 2001**. She has proved during the placement period that she is capable of taking on the challenge of raising the child in this matter. I am also convinced that she has met the social parameters that are considered relevant to her 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.

9. The child was present during the virtual hearing and appeared to have bonded well with the Applicant. She was calm and was observed to be in good health and in good spirits. Additionally, the evidence on record demonstrates that the child has flourished under the care of the Applicant.

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 Applicant's family members are aware of the proposed adoption and support it.

11. SGM, a sister to the Applicant, has by an affidavit sworn on 4th September, 2019 consented to be appointed as a legal guardian in the event that the Applicant is 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 Applicant and the child during the hearing, this court has formed the opinion that it would be in the best interest of the child to be adopted by the Applicant. The orders sought by the Applicant herein relate to a child, and the best interest of the child must therefore take center stage being of paramount importance as provided for under **Article 53(2)** of the **Constitution** and **section 4(3)** of the **Children Act No. 8 of 2001**.

13. In the premise, I allow the prayers sought in the Originating Summons dated 4th September, 2019 and order as follows:

- i. The Applicant, PNM is hereby allowed to adopt **Baby M alias Baby M** who shall henceforth be known as **MAMM**.
- ii. Her date of birth shall be presumed to be 7th September, 2017. 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 Nairobi.
- iii. SGM is hereby appointed as the legal guardian of the child in the event that the Applicant dies, or is 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 be and is hereby discharged.

It is so ordered.

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

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L. A. ACHODE

HIGH COURT JUDGE