

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA

AT KIAMBU

ADOPTION CASE NO 22 OF 2018

IN THE MATTER OF ADOPTION OF BABY E I

BY

JBK & GNK.....APPLICANTS

J U D G M E N T

1. The Applicants herein are **J B K** (male Applicant) and **G N K** (female Applicant). They are aged 50 and 51 years, respectively and married under Customary Law in 2011 and solemnizing the union in 2014. They ascribe to the Christian faith. The Applicants are both businesspeople residing in their own home at Mang'u. They also have rental units which bring them extra income, thus grossing over KShs.100,000/= p.m. The Applicants do not have any biological child out of their union although the male Applicant has a 21-year-old son who is independent and resides abroad.

2. The Applicants have applied to adopt **E I** a male minor now aged eight years. **E I** was abandoned with a good Samaritan **M W** by the mother in August 2014. After a week, the good Samaritan made a report to Soweto Police Station vide O.B No. 45 of 27th August 2014. Subsequently the child was admitted into Imani Children's Home and later committed thereto by an order of the Children Court Nairobi in Protection and Care Case No. 194 of 2015.

3. **E.I** remained at the home as efforts were made to trace the parents. Nobody came forward to claim him and the parents could not be traced. Thus, on 14th November 2015 **E.I** was declared free for adoption by Change Trust, the adoption agency, vide certificate No. 00096. Pursuant to an agreement between Imani Children's Home and the Applicants, **E I** was on 13th November 2016 placed in the care of Applicants where he has remained to date. He and another minor, **JK** aged 10 years, whom the Applicants herein have applied to adopt in Kiambu Adoption Cause No. 21 of 2018 have been in the custody of the Applicants.

4. The court has reviewed the social enquiry report by Buckner Kenya Adoption Services and the reports by the guardian *ad litem* as well as the Juja Sub-County Children Officer. The court has also received other material on record.

5. The Applicants appear to be in a stable and happy relationship. They are emotionally and financially secure and therefore able to provide and care for the subject minor despite their age. It appears that the subject minor has bonded well with the adoptive parents whose motivation for adoption is to have children of their own. Although the male Applicant had a previous child with a person whom he apparently did not get married to, the said child is an adult and lives abroad. The child was born while the male Applicant sojourned in a European country. The couple's extended families appear to be in favour of the adoption. According to the reports by the guardian *ad litem* and the children officer, the subject minor and **JK** the other child proposed to be adopted by the Applicants, in Kiambu Adoption Cause No. 21 of 2018 have both bonded well with the adoptive parents and are happy. The Applicants have ably cared for them.

6. The court is obligated in considering an application of this nature to uphold the best interests of the child. See Article 53 of the Constitution and Section 4(3) of the Children Act. The proposed adoption has been recommended by the Children officer as being in the subject minor's best interests, and the court upon reviewing all the material placed before it is equally persuaded. The child will benefit from the love and care of the Applicants who appear capable to so provide. He is already in school and adapted well to his adoptive sibling and parents herein.

6. On their part, the Applicants do qualify for a local adoption under the Children Act. In the circumstances the court will grant the Originating Summons filed on 17th October 2018 in terms of prayers 1 – 6.

DELIVERED AND SIGNED ELECTRONICALLY THIS 23RD DAY OF JULY 2020

C MEOLI

JUDGE