

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT KIAMBU

ADOPTION CASE NO 23 OF 2018

IN THE MATTER OF ADOPTION OF BABY JM

BY

SNK & SWN.....APPLICANTS

J U D G M E N T

1. **J M**, the subject minor in this case was abandoned by a roadside in Ngong area as a newly born infant. On her was a birth notification serial No.063xxx dated 19th November 2017 and issued at M. Nursing home, D. sub-county Nairobi. The mother was indicated in the notification to be V. W of Identity Card No.345xxx. A young girl who heard J M's cries in the bush alerted members of the public who picked the infant and made a report to police at Ngong Police Station *vide* OB No.20 of 21st November 2017. The subject minor was subsequently admitted to Mahali Pa Maisha Infant Rescue Centre.

2. Through an order of the court in Ngong Law Court Protection and Care Case No.210 of 2017 **JM** was committed to the home. Subsequent attempts to trace the mother were unsuccessful. Nobody came forward to claim her and on 14th June 2018 she was declared free for adoption by Buckner Kenya Adoption Services *vide* certificate No. 0270. On 23rd June,2018 she was placed in the care of the Applicants herein and has remained thus to date.

3. The Applicants herein are **SNK** and **SWN**, a married couple. **SNK**, the male Applicant is 42 years old and works in a construction firm as a supervisor while **SWN**, the female Applicant is aged 37 years and is also gainfully employed. The couple has a gross income of over KShs.100,000/= p.m.

4. The couple wed in the year, 2012 but due to biological complications have not been able to get biological children of their own. They reside in their family homestead but in their own house, at [particulars withheld] where other members of the male Applicants' family have also settled. The Applicants are Christians. They have applied to adopt the subject minor.

5. On 26th March 2019, the court appointed guardian *ad litem* and directed that reports be filed by the guardian *ad litem* and the Children Officer concerned. These reports are now on record. The court has reviewed these reports as well as the social enquiry report by the adoption agency. The reports recommend the adoption. It is apparent from the said reports that the Applicants are in a stable relationship and well and able to care for and provide for the subject minor, as demonstrated by their prior responsibility while **JM** has been in their custody.

6. The sole reason for the adoption is the Applicants' desire for a child of their own. The Applicants' extended family is in support of the adoption and according to the Children Officers report, the Applicants' home is a conducive environment for raising a child. The report notes that the minor has bonded well with her adoptive parents. Although the Subject was reported to have health complications first rescued, through treatment and follow up by the Applicants she is now in good health.

7. The best interests of a child must be upheld in an application of this nature, as required by the provisions of Article 53 of the Constitution and Section 4(3) of the Children Act. Reviewing all reports and material on record, the court is satisfied that the proposed adoption would be in **JM**'s best interests. The Applicants in my opinion are financially and emotionally capable of caring for and providing for the her.

7. They qualify for a local adoption under the Children Act. In the circumstances the court is persuaded to allow the Originating Summons filed on 17th October 2018 in terms of prayers 1 to 5.

SIGNED AND DELIVERED ELECTRONICALLY ON THIS 23RD DAY OF JULY 2020.

C. MEOLI

JUDGE