



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI

FAMILY AND PROBATE DIVISION

ADOPTION CAUSE NO. 28 OF 2019

IN THE MATTER OF THE CHILDREN ACT

(ACT NO. 8 OF 2001)

AND

IN THE MATTER OF BABY WW (MINOR)

AND

IN THE MATTER OF AN APPLICATION FOR ADOPTION

BY

DKM & EMK (APPLICANTS)

JUDGMENT

Background:

1. The applicants **DKM & EMK** are husband and wife having solemnised their marriage on the 6th of February 1999. The applicants have two biological daughters aged 19 and 12 years respectively.
2. With a view to adopting a child, the applicants sought for placement of the child subject matter with Buckner Kenya Adoption Services. The Adoption agency took them through the necessary process before placing the child with them on the 2nd of September 2019.
3. As a consequence, before court is an application for adoption of **BABY WW** by way of an Originating Summons dated the 7th of March 2019, brought pursuant to **Sections 154, 156(1), 157(1), 158(1)(a) & 4(a), 159(4), (6), (7), 160 (1), (2), (4), 162, 163, 164 (1) & 170** of the Children's Act. The Applicants seek to adopt the minor and upon such adoption the child be known as **AMK**; they also seek to have **SNK & JMM** be appointed as legal guardians of the child in the event the applicants are incapacitated or are no more and the child still unable to fend for himself, further they seek for the Registrar General to make appropriate entries in the Adoption Register.
4. Pursuant to a Chamber Summons dated 7th March 2019, the court appointed **GVC** as a guardian *ad litem*, who by law is required to safeguard the interest of the minor as these proceedings are ongoing, investigate and report the circumstances pertinent to the adoption, intervene on behalf of the child should a need arise, make recommendations towards the adoption and undertake any other task the court may require.
5. On the same date the court also directed the Director of the Children's Services Department in Nairobi and the said guardian *ad litem* to investigate the Applicants' fitness to adopt and file their respective reports

Reports:

6. Director of Children's Service Report

The report is dated 2nd October, 2019. The report gives a detailed history of the applicants' background. The applicants run a family business in [Particulars Withheld] Area, Nairobi. The 1st Applicant is also a pastor whereas the 2nd applicant is a women's leader in

church. They are aged 49 and 43 years respectively. The reason given for the adoption is to allow the family meet their desire to have a son join the family and to help a child in need. The child is said to be loved by the new family and relates very well with the younger girl.

From financial records made available the applicants are financially stable to be able to take care of the child including their biological children. They have adequate resources that go with the responsibility being sought.

The family resides in [Particulars Withheld] in a four bedroomed house, with the children and a Nanny.

As relates to the child, he is said to have been found abandoned around the 24th February 2016 in Dandora. The matter reported to the Dandora Ward Administration Police under OB NO. [...]. The child was then about 1 year old. One of the child's rescuers stayed with the child for a week to see if anyone would claim him and when this did not happen, he approached the Senior Chief of Dandora who in turn called the children's office.

According to a police letter dated 30th October 2017, no one came forth to claim the child.

The report recommends the adoption.

7. Guardian Ad litem's Report:

The Guardian *ad litem's* report is dated the 30th of August, 2019 and gives details similar to those in the Director of Children's Services report. The guardian *ad litem* further observed that the child is happy and well taken care of by the adoptive parents, who seem to love him very much.

The Guardian *ad litem* was of the opinion that this adoption will be in the best interest of the child.

8. The court takes this opportunity first to remind the applicants that as they acquire parental responsibly over the child, the child at the same time acquires rights under the law similar to those enjoyed by their biological children; including the right of inheritance.

9. As for the proposed legal guardian, both have consented to being appointment as such and are aware of their obligation should the need arise.

10. On its part having considered the application, the documents and evidence place before it, the court finds that the applicants do meet all the necessary requirements for purposes of an adoption and from the facts and circumstances herein the court forms the opinion that this adoption will no doubt be in the best interest of the minor.

11. Consequently, the court orders as follows:

- i) **DKM & EMK** be and are hereby authorised to adopt **BABY WW** who upon this adoption will be known as **AMK**.
- ii) The Registrar General do register the adoption and issue a certificate.
- iii) **SNK & JMM** are hereby jointly appointed as Legal Guardians to the minor **AMK**.
- iv) The guardian *ad litem* **GVC** is hereby discharge from the obligation earlier bestowed upon him by the court.

SIGNED DATED and DELIVERED in open court this 17th day of September, 2020.

.....

ALI-ARONI

JUDGE