



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI

ADOPTION CAUSE NO. 112 OF 2019

IN THE MATTER OF AN APPLICATION BY EKM FOR AN ORDER FOR ADOPTION

IN THE MATTER OF ADOPTION OF BABY FHS (CHILD)

EKM.....APPLICANT

RULING

1. Before me is an Originating Summons filed on 9th August, 2019 by EKM under Sections 11, 154, 156, 157, 158, 159, 160, 161, 164 and 170 of the Children's Act 2001 and Article 14(4) of the Constitution of Kenya 2010, seeking the following orders –

- 1. Pursuant to Article 14(4) of the Constitution of Kenya 2010 and Section 11 of the Childrens Act 2001, this court be pleased to declare that the child is a Kenyan citizen by birth.***
- 2. Pursuant to the provisions of Section 159 of the Children Act 2001, this Honourable Court be pleased to dispense with the requirements of consent to the adoption as required by the provisions of Section 158 of the Children Act, 2001.***
- 3. The applicant EKM be authorized to adopt BABY FHS (the child).***
- 4. Upon the making of the Adoption order, the child be known as ZHM.***
- 5. Upon the making of the Adoption Order KKA and KOO be appointed as the Legal Guardians of the child as provided for by the provisions of Section 164 of the Children Act 2001.***
- 6. Upon the making of the Adoption Order, the Registrar – General make an entry recording the adoption and the estimated date of birth of the child as 19th September, 2017 in the Adopted Children Register as provided for by Section 170 of the Children Act, 2001.***
- 7. That the costs of the application be in the cause.***

2. As is required by law, on 3rd October 2019, this court appointed EOA as the guardian ad litem. The said guardian ad litem filed her report regarding the proposed adoption dated 31st October 2019 in which she recommended that the proposed adoption was in the best interests of the child.

3. The Director of Children Services also filed their report on the suitability of the applicant to adopt the child dated 16th December 2019 signed by Mary Atati, Chief Children Officer and Mary Mbugua Assistant Director of Children Services, in which it was recommended that the proposed adoption of the child be granted.

4. On the hearing date, both the guardian ad litem and the representative of the Director of Children Services virtually adopted their respective reports.

5. It is noted from the documents filed and the evidence placed before me that the child FHS was born by MO at Mumias in what is considered to be an incestuous relationship among the Luhya community, and could thus not be raised in the family and thus relatives approached Springs of Life Children Home and committed the child there for assistance, and possible adoption.

6. The applicant is a single adult female who has had two failed marriages due to her inability to bear her own children, and the child herein is a female child born on 19th September 2017. The reports filed show that there is sufficient bonding of the child in the family of the applicant, as evidenced especially in the report of the guardian ad litem.

7. On my part, from the evidence placed before me, I find and hold that the proposed adoption is in the best interests of the child, who will now live in a family setting with a legal mother who will care and give her guidance. I thus find merits and allow the application and order as follows –

1. Pursuant to Article 14(4) of the Constitution of Kenya 2010, and Section 11 of the Children Act 2001, the child herein FHS is declared a Kenyan citizen by birth.

2. Pursuant to the provisions of Section 159 of the Children Act 2001, this court dispenses with the requirement of consent for the adoption required under the provisions of section 158 of the Children Act.

3. The applicant EKM, be and is hereby authorized to adopt BABY FHS (the child), and the child will henceforth be known as ZHM.

4. This court hereby appoints KKA and KOA to be legal guardians of the child as provided under Section 164 of the Children Act.

5. The Registrar General is hereby ordered to make an entry for the adoption of the child and the estimated date of birth of the child as 19th September 2017 in the Adopted Children Register as provided under Section 170 of the Children Act, 2001.

Dated and delivered at Nairobi this 26th October, 2020.

George Dulu

JUDGE

As today's ruling date was communicated through notice, and the matter is in today's cause list, the ruling is delivered and the Deputy Registrar will transmit a copy electronically to counsel.