



**REPUBLIC OF KENYA**

**IN THE HIGH COURT OF KENYA**

**AT KAJIADO**

**ADOPTION CAUSE NO. 6 OF 2019**

**IN THE MATTER OF THE CHILDREN'S ACT, 2001**

**AND**

**IN THE MATTER OF AN APPLICATION FOR AN ADOPTION OF AM alias LWM (INFANT)**

**BY**

**MS. LKK ..... APPLICANT**

**JUDGMENT**

1. The applicant filed an Originating Summons dated 8<sup>th</sup> April 2019 seeking an order from this court allowing her to adopt Baby AM alias LWM, a child who was abandoned shortly after birth. She also seeks an order that once adopted, the minor be renamed NA; that CMK Identity Card No. [...] and AGN Identity Card No. [...] be appointed the legal Guardians to the minor. She further seeks an order that the minor be considered a citizen of Kenya. The applicant seeks the general order that the Registrar General do make appropriate entries in the register of adoption.
2. The Originating Summons is premised on the applicant's affidavit filed together with the summons. She states that the minor is estimated to have been born on or about 16<sup>th</sup> August 2015 at Naivasha District Hospital; that she (applicant), is a citizen of Kenya and a public servant residing at Ongata Rongai in Kajiado County and she is of good Christian faith and conduct.
3. The applicant states that the Minor was received into her custody on 5<sup>th</sup> August 2016 and has been in her continuous custody since then; that the child was declared free for adoption on 17<sup>th</sup> June 2016 by Little Angels Network, a registered Adoption Society and that she is adopting the child on her own free will.
4. The applicant attached consent and other documents in support of her application including a report to show that the child was declared free for adoption, a pre-placement report. These, she states show that the child is free for adoption.
5. The court directed the County Children Welfare Society officer to file a report on the suitability of the applicant to adopt the child. The report was done and filed on 29<sup>th</sup> October 2019 recommending the adoption. The report is dated 25<sup>th</sup> October 2020 and signed by Margaret Sandiri, the Sub-County Children Officer.
6. The court appointed NMM as the Guardian Ad Litem and she filed a report on 29<sup>th</sup> September 2019 also recommending adoption.
7. During the hearing of the Originating summons, Mr. Osoro, counsel for the applicant, moved the summons and urged the court to allow it. He relied on all the documents filed in support of the summons.
8. I have considered the Originating Summons, the affidavit and the documents relied on. I have also considered the reports from the Children's Office and the Guardian Ad Litem which recommend adoption for the interest of the child.
9. The child was born around 16<sup>th</sup> August 2015 at Naivasha District Hospital and was found abandoned shortly after. She was committed to the adopting society before she was made available for adoption. The applicant has had custody of the child since August 2016 when the child was committed to her. The child's parents' whereabouts is unknown as she was found abandoned.
10. I have also noted from the record that the applicant is willing to adopt the child who has well settled and the applicant has taken her as her own child. The child needs love and protection which the applicant is willing to offer on adoption.

11. I have also perused the record of the applicant. It shows that she is a responsible person who has taken in the child as her own and she has so far done well in integrating the child as her own. This court observed the child during the hearing of this matter and was satisfied that the child was appeared at home with the applicant. She exhibited no sign of distress and was quite happy throughout the session. She was playing with the applicant and other children in court.

12. From the record, the applicant is a public servant who has the means to take care of the child. At the time of hearing, the proposed legal guardians also confirmed to court that they were aware of their obligations as legal guardians should they be appointed.

13. On the basis of what I have seen on record, the minor is a needy child who was abandoned in her very early days in life and needs parental care to grow up as a normal child with care and protection which the applicant has stepped in to offer. In that regard, the applicant meets the legal requirements for adoption and all reports have recommended adoption for the benefit and wellbeing of the child. As the Constitution and the law state, in all matters concerning a child, the interests of the child are paramount.

14. Given that all the documents, affidavits as well as reports support adoption. I am satisfied that this application has been made in the best interest of the child. The legal guardians have also confirmed that they are ready and willing to step in should the applicant be unable to discharge her parental responsibility to the child.

15. As already stated, the child's parents are unknown. She was found in Kenya and in terms of the Constitution, she is presumed to have been born in Kenya and she therefore a citizen of Kenya.

16. For the above reasons, I am satisfied that the applicant is a fit and proper person to adopt the child, the subject of this application under the Children Act. Consequently, the application for adoption dated 8<sup>th</sup> April 2019 is allowed and I make the following orders;

***a) An order is hereby made authorizing the applicant LKK to adopt BABY AM alias LWM***

***b) That the child be renamed NA.***

***c) That CMK and AGM are hereby appointed the legal guardians of the child in the event that the applicant dies, or is incapacitated by ill-health.***

***d) That NMM the guardian ad litem, be and is hereby discharged.***

***e) That the Registrar General be and is hereby directed to make appropriate entries of this adoption into the Register of Adoptions and issue a certificate to that effect.***

**Orders accordingly**

**Dated, Signed and Delivered at Kajiado this 16<sup>th</sup> day of October, 2020**

**E. C. MWITA**

**JUDGE**