



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI

ADOPTION CAUSE NO. 175 OF 2017 (OS)

IN THE MATTER OF THE CHILDREN'S ACT NO. 8 OF 2001

AND

IN THE MATTER OF ADOPTION OF BABY BS

AND

WN & CWM (APPLICANTS)

JUDGMENT

1. **WN & CWM** moved this court by way of an Originating Summons dated 8th December 2017, seeking to adopt **Baby BS** to be known upon adoption as **NMN ('child')**; to have **MWM** appointed as the legal guardian to the child and to have the Registrar-General make the necessary entries in the adoption register.

2. In a supporting affidavit dated 8th December 2017, the Applicants deposed that they got married on the 5th of February, 2010 and are yet to get a child of their own and wish to adopt the child named herein who has been in their foster care since the 22nd May, 2017.

Further they informed the court that they have the necessary financial ability and the means to enable them take care of the child.

3. On the 3rd of May, 2018 the Court directed both the Director of Children Services and **MKK** the appointed guardian *ad litem* to investigate the couple's suitability to adopt and to file a report. The Director of Children services filed two reports on 29th May, 2018 & 25th October 2018. The guardian *ad litem* also filed two reports dated 10th May, 2018 & 15th August 2018 respectively.

4. For determination before court is whether or not the Applicants are persons fit to adopt the child named herein, secondly whether all the relevant processes have been followed and whether the adoption is for the best interest of the child.

5. It was reported that the child herein was abandoned in Nakuru by its biological mother upon disagreeing with its father. The parents were not married and are known, though the biological mother could not be traced. The father who was married to a different person at the time of the child's birth consented to her adoption. The child Had been rescued by a good Samaritan who reported the matter to Kaptemwo Police Station. The mother had left behind a picture of the father and a telephone number which made it possible for the father to be traced.

6. The male Applicant is a Kenyan of 40 years and a businessman. The female Applicant is 42 years and also in business. The Applicants were married on 5th of February 2010. Have lived together ever since. They are unable to get their own children due to health issues and have nursed the idea of adopting for a while as they believe that adoption is suitable and are proud of the child. The couple live in [particulars withheld] 30 minutes' drive from the Nairobi Central business district. Their house is said to be tastefully furnished and of good standard. It is in a safe environment for children. They own the home.

7. The child was declared free for adoption by Buckner Kenya Adoption Society on the 21st April 2017 under Certificate Number [...] and was placed with the applicants on 24th July, 2017. He is said to be happy, friendly and comfortable with the proposed adoptive parents. She is well behaved and can take instructions. She speaks both English and Kiswahili.

Both reports recommended the adoption.

8. Having considered the application, the reports filed in court, observed the child, the intended adoptive parents and having analysed all the information on record I have formed the opinion that the Applicants are suitable parents, with the means to give the child a good

environment within which to grow. Further it is my opinion that the adoption will be to the best interest of the child.

9. Consequently;

(a) **WN and CWM** be and are hereby authorised to adopt baby **BS** who will henceforth be known as **NMN**

(b) **MWM** be and is hereby appointed as the legal guardian of **NMN**.

(c) The Registrar General is hereby directed to enter this adoption in the in the Adoption Children's Register.

DATED, SIGNED and DELIVERED at NAIROBI this 31st DAY OF January, 2019.

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ALI-ARONI

JUDGE

In the presence of:

Counsel for the Applicants.....