



REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA AT NAIROBI
ADOPTION CAUSE NO.169 OF 2017
IN THE MATTER OF THE CHILDREN ACT NO. 8 OF 2001

AND

IN THE MATTER OF APPLICATION FOR THE ADOPTION OF

FM.....(MINOR)

BY

JKMAPPLICANT

AND

ORIGINATING SUMMONS OF AN APPLICATION FOR AN ADOPTION ORDER

JUDGMENT

1. The Applicant in this case JKM has approached this Court by Originating summons dated 24th November 2017 seeking the following orders;

- (i) THAT the Applicant be authorized to adopt the Child currently identified known as FM.
- (ii) THAT the Child be renamed FMM.
- (iii) THAT this Court do declare that the Child's date of Birth is 10.6.2009 and her place of birth is Nairobi County.
- (iv) THAT the Child be presumed to be a Kenyan Citizen, and as a consequence, to be entitled to the rights and benefits of a Kenyan Citizen.
- (v) THAT consequent upon an Order of Presumption of Kenyan Citizenship, the Child be issued with a Post adoption Certificate of birth and a Kenyan Passport whenever desired.
- (vi) THAT CMN (the Applicant's niece) be appointed as the Child's legal guardian in the event that the applicant is incapacitated or in any way unable to discharge her Parental obligations.
- (vii) THAT the Registrar General makes appropriate entries in the Adopted Children Register and do issue a Certificate to that effect.
- (viii) THAT this Court do issue such further orders as are in the interest of justice.

2. The Applicant is a single female adult aged 55 years and a Medical Doctor by Profession working with [Particulars Withheld].

3. The Child was found abandoned on 17.7.2010 at Day Care Centre in Makongeni Estate after being taken there by a lady called SM.

4. The said SM made a report to Makongeni Police Station where it was entered in OB No. xxxx.

5. The said SM stayed with the Child for seven months before Police placed the child at Nairobi Children's home for temporary shelter on

26th January, 2011.

6. The Manager at Nairobi Children's Home asked the Administrator of Happy Life Children's Home to admit the child on 30.5.2011
7. The Child was admitted to Happy Life Children's Home on 30.5.2011 for a Period of 3 years pursuant to an order of the Children's Court in Protection and Care Case No. 19 of 2011.
8. The Police at Makongeni Police Station confirmed that they could not trace the Child's biological parents and the child was declared free for adoption by Buckner Kenya Adoption Services vide Certificate No. xxxx issued on 13th July 2015.
9. The Child was placed under the care of Applicant on 1.5.2017 and on agreement titled "Foster Care pending Adoption" dated 1.5.2017.
10. The Director of Childrens' Services investigated the matter and filed a report in this Court dated 19.4.2018. The Report which is favourable recommends that the Applicant be allowed to adopt the Child.
11. The Guardian ad Litem also filed a report dated 7.5.2018 which also recommends the Applicant to adopt the Child.
12. Buckner Kenya Adoption Services also filed a report dated 10.6.2009 which is also in favour of the Adoption. The Adoption Societies Report attached the following documents.

(i) An initial Police Report dated 24th May 2011 vide OB No. xxxx.

(ii) A Committal Order to Happy Life Children's Home dated 30.5.2011 vide Protection and Care case No. 19 of 2011.

(iii) A final Police letter dated 7/8/2012.

(iv) Admission letter to the Happy Life Children's Home dated 3/5/2011.

(v) DCO's letter dated 30.5.2011 requesting for Committal of the Child

(vi) DCO's letter dated 10.9.2014 requesting for renewal of the Committal.

13. I have Considered the Originating Summons dated 24.11.2017 together with Affidavit in Support of the same. I have also considered the reports filed herein by the Director of Children's Services together with the Buckner Kenya Adoption Services and the guardian ad litem. My findings are as follows:

(i) THAT the Applicant in this case meets the legal criteria for adoption of the Child.

(ii) THAT the consent of the biological Parent could not be obtained as the child was found abandoned on 17.7.2010.

(iii) THAT the reports filed herein are favorable and they recommend that the Applicant be allowed to adopt the child.

(iv) I find that it is in the best interest of the Child that the Applicant be allowed to adopt the Child and I accordingly direct that the Applicant be and is hereby allowed to adopt the child.

(v) THAT the Child shall be named FMM and the date of Birth 10.6. 2009 and the place of Birth Nairobi County.

(vi) I further direct that the child be presume to be a Kenyan Citizen and as a consequence be entitled to the rights and benefits of a Kenyan Citizen.

(vii) I further order that the child be presumed a Kenyan Citizen and be issued with a post-adoption birth Certificate and a Kenyan passport whenever desired.

(viii) CMN be and is hereby appointed legal guardian of the Child in case of incapacity of the Applicant before the Child attains the age of majority.

(ix) I further direct that the Registrar general records this order in the adoption Register.

(x) The Guardian Ad Litem is discharged forthwith.

DELIVERED, SIGNED AND DATED IN OPEN COURT THIS 25TH DAY OF JANUARY, 2019.

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JUDGE OF THE HIGH COURT OF KENYA, NAIROBI