



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI

ADOPTION CAUSE NO. 59 OF 2017 (O.S)

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

IN THE MATTER OF ADOPTION OF BABY EA

BY

EMM (APPLICANT)

JUDGMENT

1. The Applicant EMM is a Kenyan citizen. She is a divorcee and was blessed with one biological child who passed on at birth having been born prematurely. She wishes as a single Applicant to adopt the child known as Baby EA, a minor of the female sex through the Originating Summons dated **18th April, 2017**. The Applicant indicates that she is a Business-woman.
2. The child who is the subject of this adoption was found by a Volunteer Children Officer abandoned by an unknown person at Kabiro area in Kawangware immediately after birth on 29th March, 2016. The matter was reported at Muthangari Police Station vide OB NO. 20/29/03/2016. On 29th March, 2016, the baby was admitted to the care and protection of New Life Home Trust. On 6th July, 2016 Baby EA was committed to New Life Home Trust through the children's court at Nairobi vide C&P Case No. 132 of 2016.
3. A letter from the police dated 4th November, 2016 indicated that since the child was placed under the care of New Life Home Trust no one had claimed her. Any assistance towards the child's best interest was recommended.
4. Prior to the hearing of the adoption application, The Change Trust Adoption Society prepared and filed a report in court. They also issued a certificate No. [...] dated 10th November, 2016 declaring the child free for adoption. The guardian ad litem LPM filed a report dated 7th August, 2017 which was favourable and recommended the adoption of the child by the Applicant.
5. An officer from the office of The Director of Children's Services made home visits and established that the Applicant is financially and emotionally capable of providing for the up keep and education of the child. He filed a report on 12th September, 2017 recommending the adoption for reasons that the child has bonded very well with the Applicant as evinced by the fact that the child refers to her as "mum" all the time. That the child is healthy and feeds well.
6. The child was in court during the hearing and appeared to be healthy and to have bonded well with the Applicant. She was vivacious and confident. She seemed to trust the Applicant and regard her as her parent. The Applicant's family members are said to be aware of the proposed adoption and support it.
7. The Applicant meets the social parameters that are considered relevant to her taking on parental responsibility and custody of the child in this matter, on a permanent basis as would be conferred by the adoption order sought. The child was released to her for foster care on 2nd December, 2016 vide a foster care agreement and has been in her continuous care and protection since then.
8. Her parents Mr. JM and RM consented to be appointed as the legal guardians in the event that the Applicant dies or is incapacitated and cannot care for the child.
9. It is important to note that, the orders sought by the Applicants relate to a child. In any matter concerning a child the best interests of a child are what is of paramount importance as provided for under Article 53(2) of the Constitution and section 4 (3) of the Children Act No. 8 of 2001.
10. After a careful assessment of the reports filed herein and from the observation of the interaction of the Applicant and the child during the hearing, this court has formed the opinion that it is in the best interest of the child to be adopted by the Applicant.

11. Reasons wherefore I allow the prayers sought in the Originating Summons dated 18th April, 2017 and order as follows:

i. The Applicant, **EMM** is hereby allowed to adopt **Baby EA** who shall henceforth be known as **MIM**.

ii. Her date of birth shall be presumed to be 25th March, 2015. She is presumed to have been born in Kenya in accordance with **Article 14(4)** of the **Constitution**, and the place of birth shall be Kawangware.

iii. Mr. JM and RM, are hereby appointed as the legal guardians of the child in the event that the Applicant dies, or is incapacitated by ill-health.

iv. The Registrar General is directed to enter this Order in the Adoption Register.

v. The Director of Immigration is hereby authorised to issue the child with a Kenyan passport.

vi. The guardian ad litem is hereby discharged.

It is so ordered.

SIGNED DATED and DELIVERED in open court this **28th** day of **February, 2019**.

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L. A. ACHODE

JUDGE