



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI

ADOPTION CAUSE NO. 37 OF 2018 (O.S)

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

IN THE MATTER OF ADOPTION OF BABY AB

BY

WKM (APPLICANT)

JUDGMENT

1. The Applicant WKM is a Kenyan citizen. She is single and has never been married and has no biological children of her own. She wishes as a single Applicant to adopt the child known as Baby **AB**, a minor of the female sex through the Originating Summons dated **20th March, 2018**. The Applicant indicates that she works at [particulars withheld].
2. The child who is the subject of this adoption was found by a Good Samaritan having been abandoned in Kangemi in Nairobi on 21st November, 2016. The matter was reported at Kabete Police Station, vide OB NO. [Particulars withheld]. On 29th November, 2017, the baby was committed to the Nest Children's Home through the children's court at Nairobi vide C&P Case No. 23 of 2017.
3. A letter from the police dated 30th May, 2017 indicated that since the child was placed under the care of Nest Children's Home 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 Little Angels Network prepared and filed a report in court. They also issued a certificate No. [Particulars withheld] dated 1st September, 2017 declaring the child free for adoption. The guardian ad litem MMN filed a report dated 4th October, 2018 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. She filed a report on 22nd October, 2018 recommending the adoption for reasons that the child has bonded with the applicant and refers to her as "mum". That the child is jovial and has grown close to the applicant.
6. The child was in court during the hearing and appeared 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 17th August, 2017 vide a foster care agreement and has been in her continuous care and protection since then.
8. SNM and FM consented to be appointed 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 would be 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 20th March, 2018 and order as follows:

- i. The Applicant, WKM is hereby allowed to adopt **Baby AB** who shall henceforth be known as **IWK**.
- ii. Her date of birth shall be presumed to be 21st November, 2016. 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 Kangemi.
- iii. SNM and FM, 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