



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI

ADOPTION CAUSE NO. 74 OF 2018 (O.S)

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

IN THE MATTER OF ADOPTION OF BABY S AKA BABY S

BY

HWC (APPLICANT)

JUDGMENT

1. The Applicant HWC is a Kenyan citizen. She is single and has never been married but is in a relationship with a person who is aware that she is in the process of adopting and has no objection. She has no biological children of her own. She wishes as a single Applicant to adopt the child known as Baby S aka Baby S, a minor of the female sex through the Originating Summons dated **18th June, 2018**. The Applicant indicates that she is a businesswoman.
2. The child who is the subject of this adoption was found abandoned as a new born by her biological mother at one CA's home on 19th March, 2017. CA offered the expectant mother a place to stay overnight and in the morning, when she went to check on her, she found that the woman had delivered in the night and disappeared leaving the baby. The matter was reported at Huruma Police Station, vide OB NO. [Particulars withheld]. On 19th April, 2017, the baby was committed to the Nest Children's Home through the children's court at Nairobi vide C&P Case No. 138 of 2017.
3. A final letter from the police dated 19th October, 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 8th December, 2017 declaring the child free for adoption. The guardian ad litem SWW filed a report dated 18th December, 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 10th December, 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 18th December, 2017 vide a foster care agreement and has been in her continuous care and protection since then.
8. SNM who is the Applicant's first-born Sister (widowed) and LNM (Daughter to SNM) consented to be appointed as legal guardians in the event that the Applicant dies or is incapacitated and cannot care for the child.
9. 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 18th June, 2018 and order as follows:

- i. The Applicant, HWC be and is hereby allowed to adopt **Baby S ALIAS BABY S** who shall henceforth be known as **SNC**.
- ii. Her date of birth shall be presumed to be 19th March, 2017. She was born in Kenya and the place of birth shall be Huruma, Nairobi.
- iii. SNM and LNM, 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 14th day of March, 2019.

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L.A ACHODE

JUDGE