



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NYERI

ADOPTION CAUSE 1 OF 2016

IN THE MATTER OF ADOPTION OF

BABY F A.....MINOR

BY

MM

NWM.....APPLICANTS

J U D G M E N T

F.A was abandoned near a bush in Thogoto where he was rescued by a good Samaritan on 20th December 2012. The Good Samaritan took him to Kikuyu Police Station through OB no. 59/20/2012 where the OCS referred him to Abandoned Baby Centre at Dagoretti Children's Centre.

Through a Protection and Care File no. No.227 of 2013 the Children's Court Nairobi committed him to the Centre on 2nd September 2013 for a period of three years following recommendation by the District children officer Dagoretti. The date of birth was estimated to be around 20th August 2012.

In the meantime, the applicant herein MM and NWM not having been able to have a child of their own were looking for a baby to adopt. Through the Little Angels Network Adoption Committee, they were assessed and found suitable to adopt a child of their preference. The committee stated so in their report dated 24th October 2012.

By 30th August 2013, the Police had not traced the mother of the child and neither had anyone gone to the station to lay claim on the child. On 30th September 2013 F.A was placed in their possession, custody and care through a foster care agreement. By a report dated 20th November 2013 the child F.A was declared free for adoption, and a certificate of declaring a child free for adoption no. 001383 was issued. The applicants filed this adoption cause on 12th May 2016 seeking authority to adopt F.A. MMN was proposed and consented to be appointed as both guardian ad litem and the legal guardian.

The guardian ad litem made a report dated 4th March 2016 where he observed that having been with the child for 1 year 1 month the applicants had bonded well with the child and were capable of raising the child. He recommended them for an adoption order.

The Department of Children Services vide their report of 21st November 2018 – upon making home visits and social inquiry also recommended the applicant as suitable parents. The officer noted that the child had bonded well with his adoptive parents and that it was in his best interests that the orders sought be granted. The applicants have the financial and emotional capacity to raise the child in a loving family environment.

I heard both the applicants in oral testimony and the proposed legal guardian. The adoptive parents detailed their journey with Little Angels Network from 2011 to 2013 when the child was placed with them. I had the limited opportunity to observe them and their relationship with the child during the hearing. They gave the picture of a normal family.

They were ready to have final adoptive orders having now stayed with the child for almost 6 years.

Alternative family care provides the family that a child requires to thrive just like children in any normal family. Adoption provides, fulfills the child's right to parental care as provided for under s.6 of the Children Act, to a name and all the protections that came to a child within the family as provided for under Article 53 of the Constitution. The right

(a) to a name and nationality from birth; which the adoptive parents confer upon the order being granted.

(b) to free and compulsory basic education and (c) to basic nutrition, shelter and health care; which the adoptive parents take responsibility to ensure their fulfillment

(d) to be protected from abuse, neglect, harmful cultural practices, all forms of violence, inhuman treatment and punishment, and hazardous or exploitative labour;

All this becomes possible by having parents exercising parental responsibility for the child.

The applicants qualify to be adoptive parents. The child is free for adoption. I therefore make the following orders:

1. The applicants be and are hereby authorized to adopt BABY FI.
2. The child's name will be FMM.
3. His date of Birth is declared 20th August 2012.
4. MMN is hereby appointed as the Legal Guardian in the event that the Applicants herein are incapacitated or in any way unable to discharge their parental obligations.
5. The Registrar General to make the appropriate entries in the Adopted Children Register and to issue a Certificate to that effect.
6. No orders as to costs.

Dated delivered and signed at Nyeri this 30th day of April 2019

Mumbua T Matheka

Judge

In the presence of:-

Court Assistant: Juliet

Ms. Mukuha for the Applicants

Applicants present

Judge