



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT MACHAKOS

ADOPTION CAUSE NO. 19 OF 2017

IN THE MATTER OF BABY PM

ON APPLICATION FOR AN ADOPTION ORDER

RULING

1. This application is brought by way of Originating Summons dated 18th September, 2017. The Applicants **JLM and RNL** through their advocates Janet Jackson & Susan LLP Advocates seeking the following orders:

1. **THAT the requirements of Section 158(4) (a) of the Children's Act be waived as provided for by Section 159(I) of the Act.**
2. **THAT JMM in the said Republic be appointed Guardian ad Litem in this case.**
3. **THAT the Applicants be authorized to adopt baby PM and the baby be known as JKJ.**
4. **THAT JSM be appointed Legal Guardian of the child.**
5. **THAT the Director of Children's Department do investigate the case and file a report.**
6. **THAT it is directed that the Registrar-General shall make in the adopted Children's Register an entry recording the adoption in accordance with the particulars set out in the Schedule attached hereto.**

2. In the preliminary stage, prayer 2 and 5 were granted by the court.

3. The Applicants **JLM and RNL** are husband and wife aged 58 and 50 years respectively and are farmers residing in Ndalani, Yatta, Machakos County. They have been married to each other since 1967 under Kamba Customary Law and received the infant under their joint custody as from 21.11.2016 and fostered him since then.

4. **JSM** swore an affidavit dated 18th September, 2017 to confirm consent to act as Legal Guardian and that he has no objection to the Applicants adopting Baby PM.

5. Baby **PM** was abandoned in a Matatu at Machakos Country Bus and was taken to Kamukunji Police Station whereto a report was made via OB[xxxx]. The minor was referred to the Missions of Charity, Huruma after committal issued by the Senior Resident Magistrate Children's Court via P& C No. 157 of 2008 on 5th September, 2008.

6. On 14th November 2015, Baby PM was declared free for adoption vide certificate issued on 30th July, 2009 and was placed in the care of the applicants from 21.11.16.

7. On 28th February, 2018 this Court directed the Director of Children Services Machakos to conduct investigations as to the suitability of the Applicants to adopt **Baby PM** and submit a report and findings to Court.

8. Constance N. Muasa is the Sub-County Children's Officer. She conducted a Social Inquiry on the Applicants by visiting and interrogating them at their home on 27th April, 2018. It was observed that the Applicants had one biological child. They have never been separated ever since they married. They are a hard working couple who have settled on their family land of 20 acres and they grow food crops and practice animal husbandry. They have taken care of baby **PM** and bonded well with the said minor who seemed to have bonded well with them as he is very jovial, playful and inquisitive thus showing signs of a happy child; her conclusion is that the applicants have demonstrated ability to maintain baby **PM**.

9. On 8th May, 2018, Constance N. Muasa, the Sub-County Children's Officer, Yatta filed a favourable report as to the suitability of the Applicant to adopt baby **PM**. She appeared before me on 7th November, 2018 to recommend applicants' application and to have the report that she filed in court confirming the suitability of the applicant to be adopted in the proceedings.

10. On 7th November, 2018, Peter Ndotono Njuguna appeared in court to recommend the applicants' application and to have the report dated 23.3.16 confirming the suitability of the applicant to be adopted in the proceedings. **JSM** appeared before me on 7.11.18 to confirm and rely on the contents of his affidavit and willingness to take up his duties as well as recommend the applicants to adopt baby **PM**. The applicants also appeared before me on the said date and relied on their affidavits to support the application.

11. This court is satisfied that the Applicants are suitable persons to adopt Baby **PM** and that they are financially stable and have the means to provide and care for him. I grant the application.

For the above reasons, the Court orders as follows;

1. **THAT the Applicants be and are hereby authorized to adopt baby PM and the baby be known as JKJ.**
2. **THAT JSM be and is hereby appointed Legal Guardian of the minor.**
3. **THAT the Registrar-General do make in the Adopted Children Register an entry recording the adoption in accordance with the particulars set out in the Schedule to this order.**

Orders accordingly.

Dated and delivered at Machakos this 24th day of April 2019.

D.K. KEMEI

JUDGE