



REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA AT MACHAKOS
ADOPTION CAUSE NO. 7A OF 2017
IN THE MATTER OF BABY E
ON APPLICATION FOR AN ADOPTION ORDER

RULING

1. This application is brought by way of Originating Summons dated 29th March, 2017. The Applicants **WWN and CKW** 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** JKM in the said Republic be appointed Guardian ad Litem in this case.
3. **THAT** the Applicants be authorized to adopt baby E and the baby be known as ENW.
4. **THAT** JMK 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 **WWN and CKW** are husband and wife aged 55 and 48 years respectively and are farmers residing in [particulars withheld] Village, Kyua Location in Yatta sub-county, Machakos County. They have been married to each other since 2001 under Kamba Customary Law and received the infant under their joint custody as from 17.2.2014 and fostered him since then.

4. **JMK** swore an affidavit dated 29th March, 2017 to confirm consent to act as Legal Guardian and that he has no objection to the Applicants adopting Baby E.

5. Baby E was presumed to have been born on 10.7.2012 abandoned at Huruma on 14.2.2012. He was rescued by members of the public who reported the matter at Huruma Police Station via OB/28/14/07/2012. The minor was referred to the Missions of Charity, Huruma for a period of three years, with the help of the Starehe District Children's Office on 6.8.2012 after committal issued by the Senior Resident Magistrate Children's Court via P& C No. 314 of 2012.

6. On 21st October, 2013, **Baby E** was declared free for adoption by the Little Angels Network vide certificate number 001335 issued on the same day and was placed in the care of the applicants from 17.2.2014 for mandatory bonding.

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 E** 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 25th April, 2018. It was observed that the Applicants had one child who passed away in 2000 and their attempts to have another child did not yield any fruits. They have never been separated ever since they married. They are a hard working couple who have settled on their family land of 14 acres and they grow food crops and practice animal husbandry. They have taken care of baby E 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 E.

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 **E**. **She** appeared before me on 7th November, 2018 to recommend applicants' application and to have the report that she filed on court confirming the suitability of the applicant to be adopted in the proceedings.

10. **On** 7th November, 2018, Natasha Nkatha of Little Angels Network appeared in court to recommend the applicants' application and to have the report dated 21.8.2013 confirming the suitability of the applicant to be adopted in the proceedings. **JMK** and **JKM** appeared before me on 7.11.18 to confirm and rely on the contents of their affidavits and willingness to take up their duties as well as recommend the applicants to adopt baby **E**. 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 **E** 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 E and the baby be known as ENW.**
2. **THAT JMK 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