



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA

AT NAIROBI

MILIMANI LAW COURTS

FAMILY DIVISION

ADOPTION CAUSE NO. 112 OF 2018

IN THE MATTER OF THE CHILDREN ACT, 2001

AND

IN THE MATTER OF THE ADOPTION OF BABY D (CHILD)

BY

FMW.....APPLICANT

JUDGMENT

1. The applicant **FMW** is a Kenyan national who was married in 2007, but the marriage collapsed because she could not get a child. She is a hairdresser by profession. She filed an application dated 2nd August 2018 seeking to be allowed to adopt Baby D.

2. Baby D was presumably born on 26th November 2015. She was found abandoned near Jua Kali area on 10th December 2015 and taken to the Embakasi Police Station by a good Samaritan called Daniel Njenga Koigi. The child was handed over to Thomas Barnardo Home as it was in need of care and protection. On 14th March 2016 the Nairobi Children's Court committed the child to the Home vide **Protection and Care Cause No. [xxxx]**. On 9th November 2016 the child was declared free for adoption under **section 156(1)** of the **Children's Act** by the Kenya Children's Home Adoption Society. On 15th August 2017 it was placed under the care of the applicant for mandatory bonding prior to adoption and has been under the continuous care of the applicant since. Efforts by the police to trace the child's parents have been unsuccessful.

3. On 25th October 2018 the Court appointed PNW as *guardian ad litem* and ordered that he files a report after carrying out a social inquiry on the applicant. A similar report was sought from the Director of Children Services. Both reports were duly filed, and each recommended that the applicant be allowed to adopt the child. She has no criminal record and is of good health. The child has bonded well with the applicant and she is well looked after. The child considers the applicant as her parent. The applicant is socially, emotionally and financially capable of taking care of the child.

4. The court finds that it is in the best interests of the child to be adopted by the applicant. The applicant has demonstrated her ability to provide a conducive home and family environment in which the child will grow and develop. She will assume all parental rights and obligations of the biological parents of the child once adopted, and shall treat him as if he was born to her. She has been made aware that once the adoption order is made, it shall be final and binding during the lifetime of the child. The child shall have the right to inherit her property. The applicant shall not be able to give up the child owing to any subsequent unforeseen behaviour or other changes in the child.

5. Having been satisfied that all the legal requirements for a local adoption under the **Children Act** have been met, the following orders shall issue:-

a. the applicant **FMW** is hereby allowed to adopt Baby D;

b. Baby D shall henceforth be known as JMW1;

c. JMW2 is hereby appointed to be the child's legal guardian in the event of death or incapacity of the applicant before she is of full age and fully self-reliant;

d. the Registrar-General is directed to enter this adoption in the Adopted Children Register; and

e. The guardian ad litem is hereby discharged.

DATED and SIGNED at NAIROBI this 22ND day of MAY 2019

A.O. MUCHELULE

JUDGE

DATED and DELIVERED at NAIROBI this 30TH day of MAY 2019

A.N. ONGERI

JUDGE