



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI

FAMILY DIVISION

ADOPTION CAUSE NO. 149 OF 2017 (OS)

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

IN THE MATTER OF ADOPTION OF RG (MINOR)

BY

JMG (APPLICANT)

JUDGEMENT

1. The Applicant **JMG** moved this court by way of an Originating Summons dated 29th March 2019 seeking for the following orders; -
 - a. That the court be pleased to Appoint **RWW** as *Guardian ad litem*.
 - b. That the Director Children's Department, Ministry of Labour, Social Security and Services investigate the Applicant's fitness to adopt and file a report.
 - c. That **JMG** be authorised to adopt the minor **RG**
 - d. The minor upon adoption be known as **RGW**.
 - e. That **FN** be appointed as legal guardian of the minor in the event the applicant dies or is incapacitated by ill-health.
 - f. That the Registrar General do enter the adoption in the Adoption Register.
2. Before allowing any adoption the court would require the guardian *ad litem* as appointed by court and the Department Children's Services do investigate and file socio inquiry reports on the applicant's suitability and fitness to adopt.
3. On the 25th of January 2018 the court appointed **RWW** as the *guardian ad litem* herein and required the guardian as appointed and the Director of Children's Services to file their respective reports in court within 45 days of the date thereof.
4. The applicant is aged 60 years and carries on a tailoring business. She is a single parent of a grown-up son aged 38 years. She resides in her own house in Ruai in Nairobi. Along side the minor herein she also takes care of her own two grandchildren. Her reason for adopting the minor herein is purely philanthropic.
5. The child was placed with the Applicant on the 19th of May 2006. 13 years ago, and is said to have bonded well with the applicant whom she refers to as 'mum'.
6. The child was born on 24th November, 2005 and was admitted on the 28th of November 2005 at St, Thomas Barnardo House after being discharged from Hospital. The child was offered for adoption by her biological mother on the 9th of January, 2006.
7. The court in Case No. XX of 2006, on the 5th of April 2006, declared the child be committed to the house as a child in need of care and protection and she was committed to the house for 3 years. She was declared free for adoption by the Kenya Children's Home Adoption Society on 17th May, 2006. On 19th of May 2006 she was placed under the care of the applicant. The child is now aged is 14 years.
8. The respective reports were filed in court on 19th of April 2018 & 18th December 2018. The *guardian ad litem* in her report filed on 18th

December 2018 reported that the child has had a healthy growth, is well catered for and was very close to the applicant. She recommended the applicant as a fit person to adopt the child.

9. In his report filed on 18th April 2018 the Director of Children's department echoes the sentiments of *the guardian ad litem*. The child was said to be in class 7 last year and was happy in her school. Further that the applicant was able and willing financially to support the child. The report also recommended the adoption of the child by the applicant however, a concern was raised on how the child was given up for adoption since no clear information is on record.

10. The court has considered the report filed in court by Kenya Children's Homes Adoption Society dated 6th October 2017, alongside the application. The said report enumerates how and why the child was given up for adoption to the Thomas Barnardo's home. The court is satisfied with the reasons for the child's mother giving her up for adoption, the reasons given are justifiable in the circumstance.

11. Based on the above background the court finds the applicant is a fit person to adopt the child, and that this adoption is for the best interest of the child. Consequently the following orders issue;

- a. The Applicant **JMG** be and is hereby authorised to adopt **RG** who will henceforth be known as **RGW**
- b. **FNG** be and is hereby appointed as the child's legal guardian in the event the applicant dies or is incapacitated before the minor attains the age of 18 years.
- c. The Registrar General do enter this adoption in the Adoption Register.
- d. The **guardian ad litem** **RWW** is hereby discharged from the duties bestowed upon her by the court.

Dated and Delivered in Nairobi this 23rd day of May 2019

ALI-ARONI

JUDGE