



REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA
AT NAIROBI
MILIMANI LAW COURTS
FAMILY DIVISION
ADOPTION CAUSE NO. 30 OF 2014
IN THE MATTER OF THE CHILDREN ACT 2001
AND
IN THE MATTER OF BABY BJN (CHILD)
AND
IN THE MATTER OF AN APPLICATION FOR ADOPTION BY
AGO.....1ST APPLICANT
CAN.....2ND APPLICANT
JUDGMENT

1. The applicants are a Kenyan couple aged 54 and 49, respectively. The 1st applicant is a self-employed management consultant while the second applicant is a project officer with the [Particulars withheld]. They got married under Luo customary law in the year 2010. The 1st applicant has one biological son aged 21 years from a previous marriage. The couple filed this originating summons on 29th January 2014 seeking to be allowed to adopt the female child.

2. Child BJN was born on 4th November 2008. The birth certificate No. [xxxx] indicates KM as the father. The child was delivered at home. While at home she developed health problems. The mother took her to Thika District hospital where she was diagnosed with hypothermia. The child was admitted for treatment. On 6th November 2008 the mother abandoned her at the hospital and has not been seen since. The matter was reported at Thika Police Station vide OB No. [xxxx] after hospital authority found out that neither the mother nor a relative had come to see the child. On 28th November 2008, Thika Children's Court committed her to New Life Home Trust vide **Protection and Care Case No. 84 of 2008**. Efforts to trace the parents of the child did not bear any fruits. The child was declared free for adoption under **section 156(1)** of the **Children's Act** by Little Angels Network on 12th August 2009 under Certificate Number [xxxx].

3. On 30th January 2015 the Court appointed DOK as the guardian *ad litem* and directed her and the Director of Children Services to carry out a social inquiry on the applicants to determine their suitability to adopt the child. The reports were filed each recommending the applicants be allowed to adopt the child. The reports found that the applicants were socially, emotionally and financially stable and suitable to adopt the child. It was also found that the child and the applicants had bonded well.

4. The court finds that it is in the best interest of the child to be adopted by the applicants. The applicants have demonstrated their ability to provide a conducive home and family environment in which the child will grow and develop. They will assume all parental rights and obligations of the biological parents of the child once adopted, and shall treat her as if she was born to them. They have 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 their property. The applicants shall not be able to give up the child owing to any subsequent unforeseen behaviour or other changes in the child. This court dispenses with the consent of the child's biological parents as she was found abandoned.

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 applicants AGO and CAN are hereby allowed to adopt Baby BJN.;
- b. Baby BJN shall henceforth be known as MDVO;
- c. LN is hereby appointed to be the child's legal guardian in the event of death or incapacity of the applicants 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 DELIVERED at NAIROBI this 23RD day of MAY 2019.

A.O. MUCHELULE

JUDGE