



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA

AT NAKURU

ADOPTION CAUSE NUMBER 17 OF 2017

IN THE MATTER OF BABY CM MINOR

AND

RLM.....1ST APPLICANT

AWN.....2ND APPLICANT

JUDGMENT

The application is brought by way of Originating Summons and is dated the 10th April, 2017. The Applicants **RLM (RLM)** and **AWN (AWN)** through their advocate Makori & Rioba Company Advocates seek the following orders.

1. Spent
2. Spent
3. Spent
4. THAT the applicants be authorized to adopt baby CM and the child be henceforth called AN.
5. THAT the child be presumed to be a Kenyan Citizen having been found abandoned at Kaptembwa area, Nakuru County within the Republic of Kenya.
6. THAT the Registrar-General do make the appropriate entries in the Adopted children's register in respect of the minor and further the Registrar of Births and Deaths do issue a Birth Certificate in respect thereof.
7. THAT the court does issue such other orders as may be necessary in the best interest of the child.
8. THAT the costs be in the cause.

The 1st and 2nd applicants are husband and wife. They hail from Narok. The applicants are farmers. They solemnized their marriage on 28th August, 2013 at the Registrar's office in the Nakuru District of the Rift Valley Province under the **Marriage Act (Cap 150) Laws of Kenya** and were issued with a Certificate of Marriage serial number XXX. The applicants have never been blessed with a biological child of their own due to medical complications of **AWN**. They thus desire to adopt **BABY CM**, a male child, in order that they can give parental love, have a sense of belonging and also enlarge their family. This is the second adoption application. They initially adopted **MWL** as per the Certificate of Entry in the adopted children register serial number 6289 available.

Baby CM was presumably born on 17th October, 2012. He was abandoned on 17th October, 2014 at a house in Kaptembwa when the mother asked someone to hold the baby for her while she buys airtime at the shop and never came back. The matter was later reported and recorded at Nakuru Police Station vide occurrence book number [xxxx]. The officer in charge of the police station sought a vacancy at Africa Gospel Church Baby Center - Ngata which was availed and the minor was admitted on 17th October, 2014 as a child in need of care and protection. **Baby CM** was officially committed to Africa Gospel Church Baby Centre – Ngata at the Molo Children's Court on 14th January, 2015 vide **Protection and Care Case Number X of 2015**. The records available indicate that the child is in good health. The home has ensured that the child's immunization schedule was followed as per the Kenya Expanded Programme Guidelines on immunizations.

The Nakuru Police Station confirmed that no one went to the station to claim **Baby CM** and their efforts to trace his kindred have been futile. **Baby CM** was declared free for adoption by the Change Trust Agency's Case Committee sitting of 28th July, 2015 via a freeing certificate serial number [xxxx] in compliance with **Section 156(1)** of the **Children's Act 2001**.

The applicants approached the Kenya Children's Homes Adoption Society with an intention of being approved to adopt a male child. They were taken through the adoption process and its implications to which they agreed and committed themselves by signing the certificate of acknowledgement on 15th September, 2016.

The society's personnel conducted a home study and interview on the applicants at their residence in Narok on 18th October, 2016. They were thereafter approved to be suitable potential adoptive parents by the society's case committee sitting of 9th November, 2016 and were subsequently placed with **Baby CM** on 21st November, 2016 after successful bonding at Africa Gospel Church Baby Centre – Ngata. Since placement with the minor, the applicants have bonded well and expressed great joy and contentment with **Baby CM**.

On 7th May, 2018, the court ordered the Director of Children's Services in the Ministry of Gender, Children and Social Development to conduct investigations as to the suitability of the applicants to adopt **Baby CM** and submit a report to court. The consent of the biological parents of the minor was dispensed with since the child was abandoned at a tender age of two (2) years and to date has been unclaimed and efforts to trace the parents proved futile. One JKW of P.O. Box [xxxx], EGERTON was appointed as *Guardian ad Litem* of **Baby CM**.

As a result of a home visit made on 23rd January, 2019 where the applicants were interrogated on their fitness to adopt **Baby CM**, One Edwin Ndwiga Njagi for the County Coordinator Childrens Services, Nakuru County filed a favourable report dated 24th January, 2019.

This Court has had occasion to consider the application and the relevant reports filed. In the best interest of the child it is hereby ordered;

1. **THAT the applicants be and are hereby authorized to adopt baby CM and the child be henceforth called AN.**
2. **THAT the child be and is hereby presumed to be a Kenyan Citizen having been found abandoned at Kaptembwa area, Nakuru County within the Republic of Kenya.**
3. **THAT the Registrar-General do make the appropriate entries in the Adopted children's register in respect of the minor and further the Registrar of Births and Deaths do issue a Birth Certificate in respect thereof.**
4. **THAT the costs be in the cause.**

Dated and Signed at Nakuru this 20th day of June, 2019.

A. K. NDUNG'U

JUDGE