



**REPUBLIC OF KENYA**

**IN THE HIGH COURT OF KENYA AT MACHAKOS**

**ADOPTION CAUSE NO. 12 OF 2016**

**IN THE MATTER OF BABY SP**

**ON APPLICATION FOR AN ADOPTION ORDER**

**RULING**

1. This application is brought by way of Originating Summons dated 14<sup>th</sup> March, 2016. The Applicant AMM through her advocates J.M. Mutua and Co Advocates seeks 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** PMM in the said Republic be appointed Guardian ad Litem in this case.
3. **THAT** the Applicant be authorized to adopt baby SP and the baby be known as VK.
4. **THAT** UKM 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 Applicant AMM is aged 44 years and is a businesswoman. She is unmarried and resides in Machakos and received the infant under her custody as from 23.09.2015 and fostered her since then.

4. UKM swore an affidavit dated 14<sup>th</sup> March, 2016 to confirm consent to act as Legal Guardian and that he has no objection to the Applicant adopting Baby SP.

5. Baby SP was estimated to have been born on 13<sup>th</sup> June, 2012 and found abandoned in Nakuru on 13.12.2014. He was rescued and taken to Africa Gospel Church Baby Centre- Nakuru whereupon the matter was reported and recorded at the Nakuru Police Station vide OB/[xxxx]. The minor was admitted at Africa Gospel Church Baby Centre- Nakuru on 13.12.2014 as a child in need of care and protection and was committed to the same place for care and protection by the Nakuru Children's Court on 15.12.2014 after committal issued vide P&C No. 559 of 2014 for a period of three years.

6. The minor remained unclaimed and on 18.08.2015, Baby SP was declared free for adoption by the Case Committee of the Change Trust Adoption Society vide certificate number [xxxx] issued on 18.8.2015.

7. On 21.9.2016 this Court directed the Director of Children Services Machakos to conduct investigations as to the suitability of the applicant to adopt Baby SP and submit a report and findings to Court.

8. Emily Kimanzi is the Sub-County Children's Officer. She conducted a Social Inquiry on the Applicant by visiting and interrogating her at her home on an unknown date. It was observed that the Applicant is not married and has a 4 acre piece of land and would like the minor to inherit the same. It was established that she has taken care of baby SP and bonded well with the said minor who seemed to have bonded well with her as well as the immediate and extended family and it is in the best interests of baby SP to be adopted by the applicant. The said children officer filed her report dated 22<sup>nd</sup> June 2018, which was favourable as to the suitability of the Applicant to adopt baby SP and duly recommended her to adopt the baby as it was in the best interests of the said minor.

9. On 8<sup>th</sup> November, 2018, PNN appeared in court to recommend the applicant's application and to have the report dated 22.8.2016 confirming the suitability of the applicant to adopt the baby in question in these proceedings. **UKM** appeared before me on 8.11.2018 to confirm and rely on the contents of his affidavit and willingness to take up his duties as well as recommend the applicant to adopt baby **SP**. On 22.1.2019, **AM** who is the applicant appeared before me and confirmed that she is desirous of adopting Baby SP as she has bonded well with him. She further stated that she had no biological children of her own and that she would ensure that the baby is well catered for in life by seeing to it that the boy is educated to the highest level of education he can get.

10. This court is satisfied that the Applicant is a suitable person to adopt Baby **SP** and that she is financially stable and has the means to provide and care for him. The baby having been abandoned, it is in the best interest of this child to allow the application for adoption.

For the above reasons, the Court orders as follows;

1. **THAT the Applicant be and is hereby authorized to adopt baby SP and the baby be known as VK.**
2. **THAT UKM 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.**
4. **THAT the Guardian Ad Litem is hereby discharged.**

**It is so ordered.**

**Dated and delivered at Machakos this 20<sup>th</sup> day of June 2019.**

**D.K. KEMEI**

**JUDGE**