



**REPUBLIC OF KENYA**

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

**ADOPTION CAUSE NO. 16 OF 2018**

**IN THE MATTER OF BABY FM**

**ON APPLICATION FOR AN ADOPTION ORDER**

**RULING**

1. This application is brought by way of Originating Summons dated 28<sup>th</sup> May, 2018. The Applicant HWM through her advocates Janet, Jackson & Susan LLP Advocates seek 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 MWM in the said Republic be appointed Guardian ad Litem in this case.**
3. **THAT the Applicant be authorized to adopt baby FM and the baby be known as SMH.**
4. **THAT SMA 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 **HWM** is aged 37 years and is a marketer. She is unmarried and resides in Imara Daima and received the infant under her custody as from 20/12/2017 and fostered her since then.

4. **SMA** swore an affidavit dated 28<sup>th</sup> May, 2018 to confirm consent to act as Legal Guardian and that she has no objection to the Applicant adopting Baby FM.

5. Baby **FM** was estimated to have been born on 4<sup>th</sup> April, 2017 via notification serial number [xxxx] at Ruiru Sub-County Hospital and abandoned at the maternity ward soon after birth. She was referred by the Children Department Ruiru Sub-County to the Abandoned Baby Care Centre on 10.4.2017 where a report was made via OBXXX on the same day at the Ruiru Police Station. Her mother was indicated as PKM, a resident of Gitambaya. The minor was committed to Frances Jones Dagoretti Children's Centre on 14.6.2017 after committal issued by the Senior Resident Magistrate Children's Court, Nairobi via P& C No. XX of 2017 for a period of three years.

6. The minor remained unclaimed for 6 months and on 8<sup>th</sup> December, 2017, **Baby FM** was declared free for adoption by the Case Committee of the Little Angels Network vide certificate number [xxxx] issued on 8.12.2017 and was subsequently placed in the care of the applicant.

7. On 31.8.2018 this Court directed the Director of Children Services Machakos to conduct investigations as to the suitability of the Applicant to adopt **Baby FM** 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 5<sup>th</sup> October, 2018. It was observed that the Applicant is not married and is a strict Muslim. She acquired property in Kitale, Malindi and in Juja and would like the minor to inherit and enjoy the said properties. She has taken care of baby **FM** and bonded well with the said minor who seemed to have bonded well with her, she has lots of nice clothes and shoes and has a nanny who is teaching her English; her conclusion is that the applicant has demonstrated ability to maintain baby **FM**. The said officer filed a favourable report dated 29<sup>th</sup> October 2018 as to the suitability of the Applicant to adopt baby **FM**.

9. On 6<sup>th</sup> November, 2018, NN appeared in court to recommend the applicant's application and to have the report dated 18.12.17 confirming the suitability of the applicant to be adopted in the proceedings. SMA and MWM appeared before me on 6.11.18 to confirm and rely on the contents of their affidavits and willingness to take up their duties as well as recommend the applicant to adopt baby FM. The applicant also appeared before me on the said date and relied on her affidavit to support the application.

10. This court is satisfied that the Applicant is a suitable person to adopt Baby FM and that she is financially stable and has the means to provide and care for her. In the premises I allow the application.

For the above reasons, the Court orders as follows;

1. ***THAT the Applicant be and is hereby authorized to adopt baby FM and the baby be known as SMH.***
2. ***THAT SMA 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.**

Orders accordingly.

Dated and delivered at Machakos this 19<sup>th</sup> day of June, 2019.

D.K. KEMEI

JUDGE