



REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA
AT NAIROBI
MILIMANI LAW COURTS
FAMILY DIVISION
ADOPTION CAUSE NO. 140 OF 2016
IN THE MATTER OF CHILDREN'S ACT, 2001

AND

IN THE MATTER OF ADOPTION OF CHILD A.

BY

CAO.....APPLICANT

JUDGMENT

1. The applicant is a single female applicant of 54 years of age. She is a personal secretary at [particulars withheld]. She filed an originating summons on 7th November 2016 seeking to be allowed to adopt the child herein.
2. The application was heard and judgement delivered on 21st September 2017 where the court observed that the report from Children's Services contained errors as follows that:-
 - a) it claimed to have been prepared pursuant to a court order dated 2nd November 2016 when the application had not been filed as at then;
 - b) it is indicated that the guardian *ad litem* was PWM but in fact she was ENG;
 - c) the reason for adoption were contradictory;
 - d) the basic salary of the applicant is indicated as being kshs. 83,760 per month yet the payslip states kshs. 75,000/= including all allowances; and
 - e) the report indicated that the child was considered free for adoption but failed to consider the question of the freeing certificate being in conflict with the court order of 17th September 2012 which committed the child to the care and custody of Manager New Life Home Trust for a period of 3 years.

For these reasons the final orders were not granted.

3. The court on 7th December 2017 directed the Director of Children's Services to file an updated report within 14 days. They filed the report on 13th December 2017. It provided that the report was prepared pursuant to the High Court order dated 7th February 2017. The reasons advanced for adoption were that the applicant underwent medical check-up with no diagnosis of infertility, while her estranged husband refused the test. She therefore opted for the adoption. She had a passion for children. The report shows the applicant has bonded well with the child. It is further indicated that the applicant's basic salary is Kshs. 75,602/= per month. The report recommended the adoption on grounds that the applicant was socially, emotionally and financially stable and suitable to adopt the child.
4. I have looked at the reports and the recommendation by the adoption agency. The recommendations are satisfactory.

5. The court notes that the applicant is a Kenyan citizen who is aged 54. Under **section 158(1)(b)** of the **Children Act**, she is within the allowed age. The reports show that she is medically, physically, spiritually and financially stable. She is staying in 2 bed-roomed house in particulars withheld] Residential flats providing a conducive environment for growth.

6. The applicant was 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 her property. The applicant shall not be able to give up the child owing to any subsequent unforeseen behaviour or other changes in the child.

7. The court finds that it is in the best interest of the child to be adopted by the applicant. The applicant has demonstrated her ability to provide a conducive home and family environment in which the child will grow and develop. She will assume all parental rights and obligations of the biological parents of the child once adopted, and shall treat her as if she was borne to her. This court dispenses with the consent of the child's biological parents as the child was found abandoned.

8. 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 applicant CAO is hereby allowed to adopt Child A.;

b) child A. shall henceforth be known as J;

c) the child's date of birth shall be 2nd August 2012, and shall be presumed Kenyan by birth having been found abandoned at Ngurubani Township in Kirinyaga in Kenya;

d) SAL is hereby appointed to be the child's legal guardian in the event of death or incapacity of the applicant before she is of full age and fully self-reliant;

e) the Registrar-General is directed to enter this adoption in the Adopted Children Register; and

f) The guardian *ad litem* is hereby discharged.

DATED and SIGNED at NAIROBI this 29th day of JULY 2019.

A.O. MUCHELULE

JUDGE