



REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA AT NAIROBI
MILIMANI LAW COURTS
FAMILY DIVISION
ADOPTION CAUSE NO. 169 OF 2015(OS)
IN THE MATTER OF THE CHILDREN ACT, 2001

AND

IN THE MATTER OF BABY J.M.
IN THE MATTER OF AN APPLICATION FOR ADOPTION BY

JNM.....1ST APPLICANT

EWN.....2ND APPLICANT

JUDGMENT

1. The applicants JNM and EWNd are a Kenyan couple, aged 60 and 55, respectively. The 1st applicant is a driver while the 2nd applicant is a farmer. The applicants met in 1982 and immediately started living together as husband and wife. On 4th February they held a customary marriage under the Kikuyu customary law and later formalised it on 10th September 2014. They have no child of their own. They filed the originating summons dated 30th June 2015 seeking to adopt baby J.M.
2. Baby J.M. was abandoned at Fatima Maternity Health Centre by the mother after delivery. The matter was reported at Ongata Rongai Police Station on 14th October 2013 under OB No. 23/14/10/13. On 6th November 2013 the baby was transferred to Thomas Barnados House for further care and protection. The baby was committed to the Home on 11th December 2013 pursuant to an order made by the Children's Court at Nairobi in Protection and Care Number 421 of 2013. On 15th October 2014 the baby was declared free for adoption vide certificate number xxx by the Kenya Children's Home Adoption Society. He was placed with the applicants on 30th June 2015 for bonding. Efforts to trace the parents of the child were fruitless.
3. On 30th October 2015 the court appointed JW as the guardian *ad litem* and ordered him and the Director of Children Services to carry out a social inquiry to determine whether the applicants were suitable to adopt the child and to each file a report within 45 days. The two 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 him as if he 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. The consent of the parents was not obtained because the child 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 JNM and EWN are hereby allowed to adopt Baby JM,
- b) Baby JM shall henceforth be known as JM;

- c) the child shall be considered Kenyan having been found abandoned at Fatima Health Centre in Ongata Rongai in Kenya;
- d) JW is hereby appointed to be the child's legal guardian in the event of death or incapacity of the applicants before he 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 DELIVERED at NAIROBI this 29TH day of JULY 2019.

A.O. MUCHELULE

JUDGE