



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA

AT NAKURU

ADOPTION CAUSE NUMBER 4 OF 2018

IN THE MATTER OF APPLICATION FOR ADOPTION OF

HA a.k.a. JN.....MINOR

AND

BKND.....1ST APPLICANT

SWM.....2ND APPLICANT

JUDGMENT

The application is brought by way of originating summons and is dated the 18th April, 2018. The applicants **BKN (BKN)** and **SWMU (SWM)** through their advocate Muchiri Gatheca & Company Advocates seek the following orders:

1. Spent
2. Spent
3. Spent
4. **THAT** the applicants be authorized to adopt the said child and the child be henceforth called JN.
5. **THAT** the child be presumed to be a Kenyan Citizen having been found in Kenya at the time of birth.
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 Birth 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 applicants, BKN and SWK are husband and wife. They solemnized their marriage on 24th March, 2009 under the **Marriage Act (Cap 150)** at Turkana Central District in the Rift Valley Province of Kenya and were issued with a Certificate of Marriage whose serial number is XXX. They reside in Molo within Nakuru County. The applicants have no biological child of their own. **BKN** is a transport manager at *[Particulars withheld]* while **SWM** is a social worker with *[Particulars withheld]*. They desire to acquire a male child through adoption in order to give their parental love to a child thus the urge to adopt **baby HA (HA)**.

Baby HA was presumably born on 23rd April, 2016. He was found abandoned along the road in Ndeffo area within Nakuru County. The matter was reported at the Nakuru Police Station and recorded vide Occurrence Book Number 5/23/8/16. **Baby HA** was admitted temporarily for care and protection at Africa Gospel Church Baby Centre- Nakuru on the same day. Later on 24th August, 2016 **Baby HA** was officially committed to the same institution vide **Nakuru Children's Court Protection and Care Case Number 354 of 2016**.

On 12th May, 2017 the officer in charge, Nakuru Police Station in their final letter confirmed that no one had come forward to claim the minor and efforts to trace his kindred have been futile. Africa Gospel Church Baby Centre also reported that during the stay at the home no one claimed the child and neither had they received information from the Department of Children Services or the Police Department

regarding the claimants.

On the 11th July, 2017, **BKN** and **SWM** made an application to the Kenya Children's Home Adoption Society for adoption of a child. They were taken through the adoption process and its implications which they confirmed having understood and appended their signatures on 14th June, 2017 in the Certificate of Acknowledgment. Upon approval by the Kenya Children's Home Adoption Society **BKN** and **SWM** were placed with **Baby HA** from the Africa Gospel Baby Centre on 28th July, 2017 and the child has been under their continuous care and control ever since. The applicants have proven their ability to take care and provide parental responsibility to **Baby HA**. The case committee of Little Angels Network as prescribed by **Regulation 16** of the **Adoption Regulations 2005 (Legislative Supplement No. 12)** deliberated on this matter in their meeting of 26th May, 2017. The case committee was satisfied that **baby HA** is available for adoption. A Certificate of Declaring a Child Free For Adoption dated 26th May, 2017, serial number XXX was issued pursuant to **Section 156(1) & Adoption Regulations – Kenya Gazette supplement No. 37**.

On 8th October, 2018, the Court directed the Director Children's Services Department, Nakuru County in the Ministry of Labour and Social Protection to conduct investigations as to the suitability of the applicant to adopt **baby HA** and submit a report on the findings to court. PKNG of identity card number XXX of Post Office Box Number XXX – 20100, NAKURU was appointed as *guardian ad litem* of **baby HA**. The consent of the biological parents of **baby HA** was dispensed with.

The Children's Department personnel interrogated the applicants and made a home visit on 30th January, 2019 to further establish their suitability to adopt the **baby HA**. Clement N. Gisore for the County Children's Coordinator filed a favourable report to Court dated 11th February, 2019.

Upon reading the above report and satisfying myself that all the legal requirements have been adhered to, this Court is satisfied that the applicants are suitable persons to adopt **baby HA** and they are also financially stable and have the means to provide and care for him.

For the above reasons, the Court hereby orders as follows:

1. **THAT the applicants be and are hereby authorized to adopt baby HA and the child be henceforth called JN.**
2. **THAT the child be and is hereby presumed to be a Kenyan Citizen having been found in Kenya at the time of birth.**
3. **THAT the Registrar-General do make the appropriate entries in the Adopted children's register in respect of baby HA and further the Registrar of Birth and Deaths do issue a Birth Certificate in respect thereof.**
4. **THAT the costs be in the cause.**

Dated and Signed at Nakuru this 24th day of July, 2019.

A. K. NDUNG'U

JUDGE