



**REPUBLIC OF KENYA**

**IN THE HIGH COURT OF KENYA**

**AT MACHAKOS**

**ADOPTION CAUSE NO. 14 OF 2018**

**IN THE MATTER OF THE CHILDREN ACT 8 OF 2001**

**AND**

**IN THE MATTER OF JM**

**AND**

**FK1.....1<sup>ST</sup> APPLICANT**

**FK2.....2<sup>ND</sup> APPLICANT**

**RULING**

1. The adoption order was sought vide two applications. The first application is brought by way of chamber Summons under 160(1) of the Children Act No 8 of 2001. It is dated 7<sup>th</sup> May, 2018. The Applicants **FK1 and FK2** through their advocates Mudeshi Muhanda and Co Advocates seek the following orders:

- 1. **THAT CN be appointed Guardian ad Litem of JM a child.**
- 2. **THAT the honorable court to direct the Director of Children’s Services to compile the requisite report on the applicants’ fitness to adopt the child JM under the Children Act.**

2. The Second application is brought by way of originating Summons under Section 154, 156, 157, 158, 159, 160 163, 164 and 170 of the Children Act No 8 of 2001. It is dated 7<sup>th</sup> May, 2018. The Applicants **FK1 and FK2** through their advocates Mudeshi Muhanda and Co Advocates seek the following orders:

- 1. **THAT the Applicants be authorized to adopt JM a minor and who is to be known as BMM and the registrar general be directed to enter this adoption into the register of adoptions.**
- 2. **THAT JWK be appointed Legal Guardian of the minor.**
- 3. **THAT the child be presumed to be born in Kenya.**

3. In the preliminary stage, the first application was allowed by the court.

4. According to the applicant’s affidavit filed in court the applicants are married to each other from 5.10.1996. They are Kenyan citizens as per the identity cards annexed to the application. The applicant’s family gave consent to the child being offered for adoption.

5. According to the applicant’s affidavit dated 7<sup>th</sup> May, 2018, JK who is the sister of the 2<sup>nd</sup> applicant has consented to be legal guardian of the minor. The applicants depone that they had never been convicted of a criminal offence and attached police clearance. They averred that they approached Buckner Kenya seeking to adopt a child and were informed that the said minor was free for adoption and after having confirmed that no one claimed the child they took up the said child for mandatory bonding.

6. According to a report filed on 25<sup>th</sup> July, 2018 by Buckner Kenya Adoption Services, the minor was found stranded at Road Block Area

and handed over to the police officers on 27<sup>th</sup> June, 2011 The matter was reported to Riruta Police Station and recorded vide OB.[Particulars withheld] and the minor was referred to Nairobi Childrens Home after being referred by the Childrens Court and he was admitted to Imani Childrens Home on 17<sup>th</sup> February 2012. On 22<sup>nd</sup> February, 2017 the child was committed to the care of the Imani Childrens Home through the Children's court at Nairobi vide Care and Protection Number 59 of 2017. The minor stayed in the home until 19<sup>th</sup> November 2017 when he was placed under the care and control of the applicants and Buckner Kenya declared him free for adoption on 29<sup>th</sup> September 2017 vide declaration certificate number [Particular withheld].

7. On 22.5.2019 this Court directed the evidence of the children's officer in Adoption 14 of 2018 be adopted in adoption 15 of 2018.

8. Emily Kimanzi is the Sub-County Children's Officer, Machakos. She conducted a Social Inquiry on the Applicant by visiting the applicants at their home on an unknown date. It was observed that the applicants have no child of their own and seek to adopt the minor. The minor seemed to have bonded well with the applicants and she opined that the applicants are well suited for adoption.

9. The Sub-County Children's Officer, Machakos filed a favourable report dated 4.9.2018 as to the suitability of the Applicants to adopt the minor. **Emily Kimanzi** appeared before me on 22.5.2019 to have the report dated 4.9.2018 in respect of a home visit that was undertaken confirming the suitability of the applicants to be adopted in the instant proceedings.

10. On 6.11.18, Mary Kamiri a social worker from Buckner Kenya Adoption Services appeared in court to recommend the applicants' application and to confirm the suitability of the applicants to adopt the minor as well as adopt the report dated 25.7.2018. **CN** appeared before me on the said date to confirm and rely on the contents of her affidavits and willingness to take up her duties as a guardian ad litem as well as recommend the applicants to adopt the minor. The applicants also appeared before me on the same day and relied on their affidavits to support the application and indicated willingness to adopt and cater for the needs of the minor. They confirmed that they have bonded well with the baby and that the environment is conducive for the baby.

11. JWK who is a sister to the second applicant agreed to take up the role of legal guardian of the minor. She confirmed that her spouse is aware and has consented to the same. She undertook to act as the minor's parent in the event of incapacitation of the applicants and understood that the role of legal guardian is not revocable.

12. This court is satisfied that the Applicants are suitable persons to adopt the minor and that they are financially stable and have the means to provide and care for her. I also find that it is in the best interests of the child to allow the application.

For the above reasons, the Court orders as follows;

1. **THAT the Applicants be and are hereby authorized to adopt JM an infant and who is to be known as BMM.**
2. **THAT JWK 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.**

Dated and delivered at Machakos this 26<sup>th</sup> day of September, 2019.

D. K. Kemei

Judge