



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI

FAMILY DIVISION

ADOPTION CAUSE NO. 104 OF 2018(OS)

IN THE MATTER OF THE CHILDREN ACT, 2001

AND

IN THE MATTER OF BABY TG

IN THE MATTER OF AN APPLICATION FOR ADOPTION BY

GKM.....1st APPLICANT

MNK.....2nd APPLICANT

JUDGMENT

1. The applicants are a Kenyan couple aged 53 and 38 years, respectively. The 1st applicant is an engineer while the 2nd applicant is a procurement officer. They married in 2012 under the Kamba customary law. They have no child. However the 1st applicant has a son, DMC. On 31st January 2019 they filed the originating summons dated 2nd August 2018 seeking to adopt baby TG
2. Baby TG is presumed to have been born on 12th February 2016. The child was found abandoned in Nairobi by a good samaritan. The matter was reported at Soweto Police Station on 15th July 2016 vide O.B Number XX/12/XX/2016. A temporary placement was secured at Imani Children's Home. On 9th November 2016 the baby was committed to the facility by the Senior Magistrate's Children Court at Nairobi vide Protection and Case Number 331 of 2016. The child was declared free for adoption on 7th April 2017 under certificate number [Particulars Withheld] by the Buckner Kenya Adoption Services and it was placed with the applicants on 21st May 2017 for mandatory bonding. Police efforts to trace the parents or relatives of the child were not successful.
3. On 20th September 2018 the court appointed LMP as the guardian *ad litem* and ordered her and the Director of Children Services to carry out a social inquiry on the applicants to determine their suitability to adopt the child and to report within 45 days. They each filed a report recommending the applicants to 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 her as if she 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. This court dispenses with the consent of the child's biological parents or relatives as they have never been traced.
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 GKM and MNK are hereby allowed to adopt T.G;
 - b) the child shall be presumed Kenya having been found abandoned in Nairobi Kenya;
 - c) the child's date of birth shall be 12th February 2016;

d) Baby TG shall henceforth be known as KNK;

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

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

g) the guardian *ad litem* is hereby discharged.

DATED and DELIVERED at NAIROBI this 26th day of SEPTEMBER 2019.

A.O. MUCHELULE

JUDGE