



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT MACHAKOS

ADOPTION CAUSE NO. 15 OF 2018

AND

IN THE MATTER OF THE CHILDREN'S ACT

AND

IN THE MATTER OF MI aka MI

AND

IN THE MATTER OF AN APPLICATION FOR AN ADOPTION ORDER BY

FK)

FK)APPLICANTS

RULING

1. By Originating Summons dated 7th May, 2018 filed in court on 15th May, 2018 the Applicants herein **FK** and **FK** sought for an order to adopt baby **MI aka MI** whom they sought to rename him as **PNM**.

2. The Applicants in compliance with the provisions of the children Act 2001 duly secured one **CN** who agreed to be appointed as Guardian Ad Litem of the child sought to be adopted.

3. The Applicants herein are Kenyan adult citizens. They are residents of Machakos County in the Republic of Kenya and in their Chamber Summons they had sought for the following prayers:-

(i) *That CN in the said Republic be appointed Guardian ad litem in this case.*

(ii) *THAT the Director of Childrens services to compile a requisite report on the Applicant's fitness to adopt the child, MI aka MI under the Children's Act.*

(iii) *That the applicants be authorized to adopt MI aka MI, a minor who is to be known as PNM and the Registrar General be directed to enter this adoption into the Registers of adoptions.*

(iv) *THAT the child be renamed PNM.*

(v) *THAT JWK be appointed the Legal Guardian of the child.*

(vi) *AND IT IS DIRECTED that the Registrar General shall make in the Children's register an entry recording the adoption in accordance with the particulars set out in the schedule attached hereto.*

4. Prayers (i) and (ii) of the said Chamber Summons was granted during the hearing held on 31/7/2018, after an examination by the Court of the proposed Guardian *ad Litem*. The Court during further hearings held on 6/11/2018 received a report dated 25th July 2018 by Buckner Kenya Adoption services and filed in court on the same day. The court also received a report by Emily Kimanzi the Machakos Sub- County Children's Officer dated 4th September, 2018 in which she recommended the applicants to adopt the baby as the same is in the best interest of the child.

5. **MI aka MI** is a male child, estimated to have been born on 23rd March, 2006. He was found abandoned at Matopeni area and rescued by neighbours Stephen Matheka of mobile phone No. 072XXXXXX and Joseph Kangethe. The matter was reported to Kayole Police station on 22nd November, 2008 vide O.B. No. [particulars withheld] and the baby was admitted to Imani Children's Home on the 22nd November, 2008. On the 16th March, 2015 he was committed to the care of the Imani Children's Home through the Children's Court at Nairobi vide Care & Protection Number 68 of 2015. On 20th March, 2014 the Kayole police station confirmed that nobody had claimed the child since he was abandoned and also the search for his parents had been fruitless. Imani children's Home further reports that during his stay in the institution no relative had turned up to claim the child and neither have they received any information from the police department concerned regarding any claimants. The minor stayed at the home until 19th November, 2017 when he was placed under the care and control of Mr. FMK and Mrs FK (the applicants herein) and has been enjoying the parental love, care and food nurturing accorded to him by the Applicants and has bonded well with them.

6. The Applicants approached the Buckner Kenya Adoption Services on the 2nd June, 2017 with an intention of adopting a baby boy aged three to five years and they were placed with **MI aka MI** from Imani Children's Home on the 19th November, 2017.

7. The reports filed in Court confirm that the Applicants are mature and responsible, and have bonded well with **MI aka MI** and all of them recommend the adoption. Having evaluated the facts of this adoption application, I note that it is seeking a local adoption and that the Applicants are aged between 25 years and 55 years of age and under the age of 65 years which is within the recommended ages. Further the reports are favourable as there is nothing adverse against them. The applicants have expressly confirmed that they will take care of the child. I find the applicants have therefore met the requirement set under Section 158 (1), (2) and (3) of the Children Act.

8. This court is also satisfied that the Applicants are qualified and able to take care of the child. The home visits by the guardian *ad litem*, the Adoption Society and the Children Officer established that the Applicants have the financial capability to provide for the upkeep and education of the child. The reports filed in Court pursuant to these visits also do recommend the Applicants request to adopt **MI aka MI**. Lastly, I observed the Applicants with **MI aka MI** in court, and it was evident that they had bonded well and that the said child is well taken care of.

9. This Court therefore forms the opinion that it would be in the best interest of **MI aka MI** to be adopted by the Applicants. Consequently, the Applicants shall assume all parental rights and duties of the biological parents in respect of the adopted child, and shall treat the adopted child as if he was born to them. The Applicants have also been made aware that once the adoption order is made it shall be final and binding during the lifetime of the child, and that the child shall have the right to maintenance and to inherit their property. The adoption order once made is absolute and irreversible, and the Applicants cannot give up the child owing to any subsequent unforeseen condition or other changes in the child.

10. I accordingly allow the application for adoption and order as

follows:

(i) ***THAT the Applicants FMK and FK are hereby authorized to adopt the child currently indentified and known as Muchai Imani aka Michael Imani***

(ii) ***THAT the child be renamed PNM.***

(iii) ***THAT JWK shall be the legal guardian of the child due for adoption should such eventuality arise.***

(iv) ***THAT as the child was born in Kenya, he is hereby declared a Kenyan citizen by birth.***

(v) ***THAT the Registrar General is directed to enter this adoption order in the Children's Adoption register.***

(vi) ***THAT the Guardian Ad litem is hereby discharged.***

It is so ordered.

Dated and delivered at **Machakos** this 26th day of **September, 2019**.

D.K. Kemei

Judge