

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT KIAMBU

ADOPTION CASE NO 9 OF 2018

IN THE MATTER OF ADOPTION OF BABY CM

BY

SBS AND EWM.....APPLICANTS

J U D G M E N T

1. The Applicants herein are a Kenyan couple. Both the male Applicant SBS and the female Applicant EWM are aged about 50 years. They reside at Thogoto, Kiambu County. SBS is employed as a driver, earning about KShs.30,000/= p.m. His wife EWM runs a family business with a monthly turnover of KShs.25000/= p.m. The two got married in 1998, but due to medical reasons were unable to have their own biological children. Both profess the Christian faith.

2. The Applicants have applied to adopt baby CM the subject female minor, born at Thika Level 5 Hospital on 27th July 2016 to CMN. The mother absconded, abandoning the subject minor, on 12th August 2016. The matter was reported to Thika Police Station vide OB No. [xxxx] of 10th August 2016. Efforts to trace the mother through contacts left at the hospital proved futile. The child was admitted into the **House of Charity Children's Home** and later committed to the home vide an order made on 30/8/16 in **Care and Protection Case No.223 of 2016** at Thika Law Courts. Nobody came forward to claim the subject minor. On 29th September 2017, **Buckner Kenya Adoption Services** declared her free for adoption vide certificate No.[xxxx] of even date.

3. Through a care agreement executed between the Applicants and the Children's home, the minor was placed under the care of the Applicants on 4th October 2017 where she was remained todate.

4. Pursuant to the order of this court, the guardian *ad litem* and the Children's Officer Kikuyu Sub county filed their respective reports. The reports indicate that the Applicants have one other adopted child named VPB, who is ten years old. The reports confirm that the Applicants are financially and emotionally stable and capable of caring and providing for the children. Their sole motivation for seeking this adoption is to have a second child as a sibling to VPB and thereby expand their family, in addition to supporting a child in need.

5. It would appear from the reports that the two adoptive children have bonded well as siblings on the one hand, and with the Applicants on the other. The respective extended families of the Applicants support adoption. Two of them have consented to being appointed as legal guardians of the adoptive child herein. The Social Enquiry Report by **Buckner Adoption Agency** highlights *inter alia* that the Applicants are below sixty five years of age, have been married over 3 years and have taken good care of the first adopted son. For her part the Children's Officer expresses confidence in the Applicants' capacity to provide for the adopted children and recommends the adoption.

6. The court is obligated to consider the best interests of the subject child in accordance with Article 53 of the Constitution and Section 4(3) of the Children Act. Reviewing all the material placed before it, the court is satisfied that the Applicants herein fulfil the requirements for a local adoption under the Children Act, having proven their capacity, prior to the adoption to care for the subject minor and her adopted sibling to be.

7. In my view it is in the best interest of the subject to be integrated in a family which loves her and is capable and willing to provide for her. In the circumstances the court grants prayers (1) and (2) of the Originating Summons filed on 10th April 2018.

DELIVERED AND SIGNED AT KIAMBU THIS 31ST DAY OF OCTOBER 2019

C. MEOLI

JUDGE

In the presence of:

Ms Matengo holding brief for Ms Muhanda for Applicant

Court Assistant - Kevin