

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT KIAMBU

ADOPTION CASE NO 8 OF 2018

IN THE MATTER OF ADOPTION OF BABY JM

BY

OIK AND TNR.....APPLICANTS

J U D G M E N T

1. **OIK** and **TNR** are the Applicants in this case. The male Applicant (**OIK**) is 35 years old while **TNR** (the female Applicant) is 31 years old. They have been married since 2014 but formalized the union in 2017. The two are Kenyan nationals. Both profess the Christian faith, are gainfully employed and reside in a rental house at Membley estate and own some parcels of land. They do not have biological children of their own due to medical reasons and have applied to adopt baby **JM**, the subject female minor.

2. The subject minor was found abandoned at a place known as Daraja within the jurisdiction of Keringet Police Station on 27th February 2017. The report was booked as **OB No xx** of 27th February 2017. On the next day, the subject was placed in the care of **New Life Home Trust Nakuru**. It was estimated then that she was born on 27th February 2017. Pursuant to the order of the subordinate court at Molo in **Care and Protection case No. 34 of 2017** the subject minor was formally committed to the home.

3. All efforts to trace her family did not yield results and on 15th November 2017, the subject was declared free for adoption by **Buckner Kenya Adoption Services** *vide* **certificate No. [xxxx]**. The Applicants subsequently executed a care agreement with the Children Home on 11th December 2017 and the subject was placed under their care where she has remained to date.

4. The court has perused the reports filed by the guardian *ad litem* and the Children Officer, Ruiru sub-county. The latter recommends the adoption, citing the apparent bonding between the adoptive couple and the subject and the couple's demonstrated ability to provide and care for the subject prior to the adoption. It is also indicated that the sole motivation for the adoption is the fulfilment of the Applicants' desire to have a child of their own. In the officer's view the subject stands to gain from integration into a loving family, in contrast to confinement in an institution.

5. For his part, the guardian *ad litem* attests to the Applicants' love for children, their financial and emotional capacity to take on parental responsibility. He notes that the child has bonded well with the adoptive family and that she has thrived in their home. The Social Enquiry Report prepared by **Buckner Kenya Adoption Services** confirms that the Applicants are suitable adoptive parents and meet the requirements of the Children Act for an adoption of a female child.

6. In an application of this nature, the court is obligated to consider the best interests of a child in accordance with Article 53 of the Constitution and Section 4(3) of the Children Act. Having reviewed the entire record, the court is satisfied that the Applicants herein satisfy the requirements for a local adoption under the Children Act. They have proved their capacity to care for and provide for the subject prior to adoption. On the face of it, the child is thriving under their care. In my considered view, it is in the best interest of the subject minor to be placed permanently in a family which loves and provides for her. In the circumstances, the court grants prayers (1) to (3) of the Originating Summons filed on 6/4/18.

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