



REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA AT NAIROBI
MILIMANI
FAMILY DIVISION
ADOPTION CAUSE NO. 27 OF 2019(OS)
IN THE MATTER OF THE CHILDREN ACT, 2001
AND
IN THE MATTER OF BABY FA aka FM
IN THE MATTER OF AN APPLICATION FOR ADOPTION
BY
NCG.....1ST APPLICANT
EWK.....2ND APPLICANT

JUDGMENT

1. The applicants are a Kenyan couple aged 35 and 31, respectively. The 1st applicant is a nutritionist manager at [particulars withheld] International- South Sudan while the 2nd Applicant was a lecturer at [particulars withheld] University but she is now a stay at home mother. They solemnized their marriage on 5th June 2018 under the **Marriage Act, 2014**. They have one biological child who was born on 30th June 2013. They filed this originating summons dated 19th February 2019 seeking to adopt baby FA aka FM.
2. Baby FA aka FM was presumably born on 7th December 2017. The child was found abandoned in a toilet in Kariobangi South by a good samaritan. The matter was reported to Buruburu Police Station by a volunteer children's officer in the area and recorded under Occurrence Book Number [particulars withheld]. On 6th June 2018 the child was committed to Imani Children's Home for a period of three years by the Nairobi Children's Court vide Protection and Care Number 209 of 2018. The police vide their letter dated 2nd July 2018 confirmed they could not trace the child's relatives. The child was declared free for adoption by Buckner Kenya Adoption Services on 3rd August 2018 vide certificate number 0292 and placed with the applicants on 2nd September 2018.
3. On 16th May 2019 the court appointed GWK as the guardian *ad litem* and ordered her and the Director of Children Services within 45days to prepare and file the requisite reports after carrying out a social inquiry on the applicants to determine their suitability to adopt the child. The two reports were filed, both recommending the applicants 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 the child was found abandoned and efforts to trace her parents and/or relatives did not bear any fruits.
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 NCG and EWK are hereby allowed to adopt FA aka FM,;
- b) Baby FA aka FM shall henceforth be known as FAN;
- c) the child's date of birth shall be 7th December 2017, and shall be presumed to be Kenyan by birth having been found abandoned at Kariobangi South in Nairobi in Kenya;
- d) CW and JW are hereby appointed to be the child's legal guardians in the event of death or incapacity of the applicants before she is of full age and fully self-reliant;
- e) the Registrar-General is directed to enter this adoption in the Adopted Children Register; and
- f) the guardian *ad litem* is hereby discharged.

DATED AND SIGNED AT NAIROBI THIS 30TH OCTOBER 2019

A.O. MUCHELULE

JUDGE

DATED AND DELIVERED AT NAIROBI THIS 31ST OCTOBER 2019

ALI-ARONI

JUDGE