

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT KIAMBU

ADOPTION CASE NO 12 OF 2018

IN THE MATTER OF ADOPTION OF BABY M. alias M. G.

BY

SNT.....APPLICANT

J U D G M E N T

1. The Applicant in this case is a female Kenyan aged 45 years. Although she has never been married she has a daughter **AW** now aged about 21 years out of a past relationship. She works as a professional nurse at P. school Thika Road and lives in premises provided by her employer, also along Thika Road. She also owns a house and a parcel of land in the same area.
2. The Applicant wishes to adopt Baby **M** alias **MG**, a male whose presumed date of birth is 18th October 2015. According to material on record his parents are unknown. He was found by a good Samaritan on 18th September 2015 abandoned in a shamba in **Karuri**. A report was made to Karuri police station vide **OB No. xx/xx/x/xxxx**. He was subsequently admitted to **Jean Petty Legacy Home**.
3. In Kiambu **Protection and Care Case No[xxxx]** the court formally committed the subject to the home. Nobody has since come forward to claim him, and on 29th July 2016, he was declared free for adoption vide **Certificate No.[xxxx]** by Little Angels Network, an adoption agency. Through a care agreement executed between Jean Petty Legacy Home and the Applicant on 11th August, 2016 the subject minor was placed in the care of the Applicant where he has remained to date.
4. On record are the social enquiry reports by the adoption agency and reports by the guardian *ad litem* and the Children's Office.
5. The reports together reveal that the Applicant is financially and emotionally stable and capable of providing for the care and upkeep of the subject minor. The Applicant's salary is about KShs.200,000/= per month. The Applicant professes the Christian faith and her motivation is to raise a child who has no parents and to care for him.
6. The Children Officer's report indicates that the Applicant has bonded well with the subject minor and that her other child, and extended family support the adoption. Noting that the Applicant has proved her capability to take on parental responsibility through raising her own biological daughter, the adoption agency and children's office assert that she is a suitable adoptive parent to the male child the subject of the application; that she will be a good parent even to the male child. In the opinion of the Children's Officer, the proposed adoption is in the best interest of the subject minor.
7. The court is obligated in considering an application of this nature to uphold the best interests of the child. See article 5 of the Constitution and Section 4(3) of the Children Act.
8. It is my considered view, having reviewed the entire record, that the Applicant satisfies the requirements for a local adoption under the Children Act. She has proved her capacity to take on parental responsibility by raising her own biological child who is now an adult. The fact that the subject minor in this case is a male should not defeat an application, which on all accounts is driven by the Applicant's desire to raise a child who has no family of his own and to give him a family in which he can receive love and care. There is nothing to suggest that the Applicant though female is not suitable to raise a male child. She has been caring for the subject child since 2016 and in my view, the integration of the subject minor within a caring family is in his best interest.
9. In the circumstances the court is persuaded to grant prayers (1) to (5) of the Originating Summons filed on 29th June 2018.

DELIVERED AND SIGNED AT KIAMBU THIS 25TH DAY OF OCTOBER 2019

C. MEOLI

JUDGE

In the presence of:

Mr. Mulinge holding brief for Mr. Kamenju for Applicant

Court Assistant - Kevin