



REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA AT NAIROBI
ADOPTION CAUSE NO. 9 OF 2019
IN THE MATTER OF THE CHILDREN ACT NO. 8 OF 2001
AND
IN THE MATTER OF APPLICATION FOR THE ADOPTION OF
BABY M.
BY
MKG.....APPLICANT

JUDGMENT

1. The Court delivered a Judgment herein on 5.4.2019 but declined to grant the originating summons dated 5.12.2019 until the following issues were clarified:

(i) Who found the child abandoned?

(ii) Where was the child between January 24th 2012 and 3rd April 2013 when Kariene Police Station wrote a final Police letter that the mother could not be traced?

2. The Director Children's Services did further investigations and clarified the said issues. The Report states that a lady by name Gladys Wanganga of Kieru Village reported at Kariene Police Station on 7.2.2012 that a lady called FK had sought employment from her and that the said F was expectant.

3. Gladys Wanganga said the lady escaped on 6.2.2012 after giving birth and left the child. The OB No. is [xxxx]

4. The child was taken to level five hospital at Meru and admitted as MM. The child stayed in Hospital until 14.3.2013 from 7.2.2013.

5. On 19.3.2013 the child was admitted at Mother Maria Zanelli Children's Home with the help of the Children's Office Imenti North.

6. On 3.4.2013 Police from Kariene Police Station wrote a final letter confirming that the Child's mother could not be traced.

7. The Child was declared free for adoption vide Certificate No. xxx by KKPI Adoption Society and placed under the Applicant's foster care on 10.10.2014.

8. The following reports were filed in this case;

(i) KKPI Adoption Society Report dated 11.2.2019.

(ii) The Guardian Ad Litem's report dated 21.2.2019.

(iii) Two Reports by Director Children's Services dated 19.2.2018 and a Supplementary Report dated 3.9.2019.

9. The Reports are favourable and they recommend the Adoption. I also find that the Applicant meets the legal threshold for adoption of the child.

10. In the matter of L.O (CHILD)[2012] Eklr the court stated that :

“For the avoidance of doubt, the rights and duties of the biological parents of the child are hereby extinguished and all the parental rights, duties, obligations and liabilities of the child, J M M. , now vest in and shall be exercisable by and enforceable against the Applicants as the adopter parents as if the child were born in wedlock to the adopter parents and the child, to all intents and purposes, now stands to the adopter parents as a child born in wedlock and both adopter parents shall henceforth be the lawful father and mother of the child.”

11. The Originating summons dated 5.2.2019 be and is hereby allowed in the following terms:

(i) THAT the Applicant MKG. be and is hereby authorized to adopt the Child Baby M.

(ii) THAT the child shall be called LGK

(iii) THAT the Consent of the biological parents be and is hereby dispensed with.

(iv) THAT the Registrar General be and is hereby directed to enter this adoption in the Adopted Children’s Register.

(v) THAT HWG be and is hereby appointed Legal Guardian of the child in case of incapacity of the Applicant before the Child attains the age of majority.

(vi) THAT the Guardian Ad Litem be and is hereby discharged.

DELIVERED, DATED AND SIGNED IN OPEN COURT THIS 29TH DAY OF NOVEMBER, 2019

ASENATH ONGERI

JUDGE OF THE HIGH COURT OF KENYA, NAIROBI.