



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI

MILIMANI LAW COURTS

FAMILY DIVISION

ADOPTION CAUSE NO. 129 OF 2018(OS)

IN THE MATTER OF THE CHILDREN ACT, 2001

AND

IN THE MATTER OF BABY DM alias MI

IN THE MATTER OF AN APPLICATION FOR ADOPTION BY

MAF.....1ST APPLICANT

HEK.....2ND APPLICANT

JUDGMENT

1. The applicants are a Kenyan couple aged 41 and 44, respectively. The 1st applicant is a driver with [Particulars Withheld] while the 2nd applicant is a head teacher at [Particulars Withheld] Church Nursery School. The parties got married under Kikuyu customary marriage in the year 2006. They have no child of their own. On 17th September 2018 they filed this originating summons seeking to adopt baby DM alias MI

2. Baby DM alias MI is presumed to have been born on 17th August 2014. The child was found abandoned in a maize plantation in Molo by a good samaritan. The baby was taken to Keringet Health Centre and the matter was reported to Keringet Police Station vide O.B. No. [xxxx]. The child was placed at New Life Home Trust, Nakuru on 13th September 2014 and later transferred to New Life Home Trust Nairobi. The child was committed to the Home vide Protection and Care Case No. 35 of 2014 on 15th October 2014 at Children's Court at Molo. The final police letter indicated that no one had claimed the child. The child was declared free for adoption by KKPI adoption society on 25th March 2015 vide certificate number xxx and placed with the applicant in July 2015 for bonding.

3. On 31st January 2019 the court appointed LWM as the guardian *ad litem* and ordered her and the Director of Children Services within 45 days 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 him as if he 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. The court dispenses with the consent of the child's biological parents or relatives as the child was found abandoned.

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 MAF and HEK are hereby allowed to adopt Baby DM alias MI.;

b) Baby DM alias MI shall henceforth be known as AMA;

c) the child's date of birth shall be 17th August 2014 and shall be presumed Kenyan by birth having been found abandoned in Molo in Kenya;

d) MWK is hereby appointed to be the child's legal guardian in the event of death or incapacity of the applicants before he 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 DELIVERED AT NAIROBI THIS 28TH NOVEMBER 2019.

A.O. MUCHELULE

JUDGE