



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT MACHAKOS

ADOPTION CAUSE NO. 1 OF 2019

IN THE MATTER OF **BABY EH**

ON APPLICATION FOR AN ADOPTION ORDER BY:

RNM.....APPLICANT

RULING

1. The adoption order was sought vide originating Summons under Sections 154, 156, 157, 158, 160, 162 and 163 of the Children Act No 8 of 2001 and is dated 27th September, 2017. The Applicant **RNM** through her advocates Janet Jackson & Susan LLP Advocates seeks the following orders:

1. **THAT** the requirements of Section 158(4) (a) of the Children's Act be waived as provided for by Section 159(I) of the Act.
2. **THAT** MN in the said Republic be appointed Guardian ad Litem in this case.
3. **THAT** the Applicant be authorized to adopt baby EH and the baby be known as EMM.
4. **THAT** JMM be appointed Legal Guardian of the child.
5. **THAT** the Director of Children's Department to investigate the case and file a report.
6. **THAT** it is directed that the Registrar-General shall make in the adopted Children's Register an entry recording the adoption in accordance with the particulars set out in the Schedule attached hereto.

2. In the preliminary stage, prayer 1, 2 and 5 were granted by the court.

3. According to a report filed in court by Change Trust, the subject minor was abandoned in Kangemi on 20th November, 2014 and that the matter was reported by unnamed good samaritans at Kabete Police Station vide OB [particulars withheld]. The report indicated that on 22nd July, 2017 the minor was committed to the care and protection of Hope House Babies through the Children Court at Milimani P & C Case 377 of 2017 and as the babies stayed at the home, nobody came to claim him. The report indicated that the applicant was interviewed and found to have one biological child and that she is a business lady residing in Machakos. She is single aged 62 years and the Change Trust Committee sitting on 17.8.2017 approved her to adopt the minor.

4. On 14.11.2017, the minor was declared free for adoption by the Change Trust Case Committee Sitting vide certificate number 00239 issued on the same day.

5. According to the applicants' affidavit dated 27.12.2018, she is a Kenyan citizen who received the minor under her care and placement on 21st February, 2019 for three months mandatory bonding.

6. **JMM** swore an affidavit dated 27.12.2018 to confirm consent to act as Legal Guardian and **MN** vide affidavit dated 27.12.2018 gave consent to act as guardian ad litem of the minor. Both of them undertook to perform their respective duties to the satisfaction of the court.

7. On 21.5.2019 this Court directed the Director of Children Services to conduct investigations as to the suitability of the Applicant to adopt **BABY EH** and submit a report and findings to Court.

8. Emily Kimanzi is the Sub-County Children's Officer, Machakos. She conducted a social inquiry on the Applicant by interrogating her and the minor on an unknown date. It was observed that the minor seemed to have bonded well with the applicant. The applicant felt that she is in

a position to take care of BABY EH and ready to take on the responsibility. She reached the conclusion that the applicant is well suited to adopt BABY EH.

9. On 20.6.2019, Emily Kimanzi filed a favourable report dated 17.6.2019 as to the suitability of the Applicant to adopt to BABY EH. She appeared before me on 20.6.2019 to recommended the applicants' application and sought to have the report dated 17.6.2019 in respect of a home visit that she undertook confirming the suitability of the applicant to be adopted in the instant proceedings.

10. On 25.9.2019, Aveline Karugu Wangechi appeared in court to recommend the applicants' application and to confirm the suitability of the applicants to adopt the minor as well as adopt the report dated 14.11.2017. JMM and MN appeared before me on 20.6.19 to confirm and rely on the contents of their affidavits and willingness to take up their duties as well as recommend the applicant to adopt BABY EH. The applicant also appeared before me on the same day and relied on her affidavit to support the application and indicated willingness to adopt and cater for the needs of the minor.

11. This court is satisfied that the Applicant is a suitable person to adopt BABY EH and that she is financially stable and has the means to provide and care for him. I also find that it is in the best interests of the child to allow the application as the baby has bonded well with the applicant. The baby having been abandoned without anyone coming to claim him would best be left under the care of the applicant who has met all the requisite conditions for adoption.

For the above reasons, the application is allowed with the following orders;

1. **THAT the Applicant be and is hereby authorized to adopt BABY EH and the baby be known as EMM.**
2. **THAT JMM be and is hereby appointed Legal Guardian of the minor.**
3. **THAT the Registrar-General do make in the Adopted Children Register an entry recording the adoption in accordance with the particulars set out in the Schedule to this order.**
4. **THAT the Guardian ad Litem is hereby discharged.**

It is so ordered.

Dated and delivered at Machakos this 26th day of November, 2019.

D.K. Kemei

Judge