



**REPUBLIC OF KENYA**

**IN THE HIGH COURT OF KENYA AT MACHAKOS**

**ADOPTION CAUSE NO. 7 OF 2018**

**IN THE MATTER OF THE CHILDRENS ACT 8 OF 2001**

**IN THE MATTER OF BABY FN**

**IN THE MATTER OF AN APPLICATION FOR ADOPTION BY:**

**SMM .....(APPLICANT)**

**RULING**

1. The adoption order was sought vide originating Summons under Sections 4, 154, 156, 157, 158, 160, 163, 164 and 170 of the Children Act No 8 of 2001 and Section 24 of the Interpretation and General Provisions Act Cap 2 of the Laws of Kenya and all enabling provisions of the law and is dated 29<sup>th</sup> March, 2018. The Applicant **SMM** through her advocates P.M. Mutuku & Co Advocates seek the following orders:

1. **THAT** **TMM** of c/o Post office Box [xxx]-90100 Nairobi in the Republic of Kenya be appointed Guardian ad Litem.
2. **THAT** the Director of Children's Department, office of the President, Ministry of home affairs do investigate the applicants fitness to adopt and file a report.
3. **THAT** the Applicant be authorized to adopt baby FN
4. **THAT** the child be renamed FKS.
5. **THAT** the child be presumed to be a Kenyan citizen and as a consequence, be entitled to the rights and benefits of a Kenyan Citizen, including being issued with a Kenyan Passport whenever desired.
6. **THAT** the Registrar General makes the appropriate entries in the Adopted Children Register.
7. **THAT** **BMM** and **LNМ** be appointed as legal guardians of the child.

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

3. According to the applicants' affidavit dated 29<sup>th</sup> March, 2018, the applicant is a Kenyan citizen resident in Machakos and a business lady who went for a pre-adoption training in respect of the child and was approved to adopt the child. She averred that she fostered the child since 2010 and currently the child is in Standard three and further that she had never received payment or reward in consideration for the application.

4. **BMM** swore an affidavit dated 29.3.2018 to confirm consent to act as Legal Guardian and **TMM** vide affidavit dated 29.3.2018 gave consent and indicated her fitness to act as guardian ad litem of the minor.

5. According to a report filed in court by the Little Angels Network, the minor was estimated to have been born on 5.6.2009 and she was found abandoned in Kayole by a good samaritan Agnes Ndila who rescued the child and took her to Mitaboni and reported to the Area Chief. The report states that the matter was reported to Machakos District Children Office and later Machakos Police Station that was booked vide OB [xxxx] and the child was placed at Spring of Hope Children Home the same day. The report states that the minor was presented before the Machakos Children Court on 23.9.2009 for committal to the Springs of Hope Children Centre in Machakos via Protection and Care No. 105/2009 and on 10<sup>th</sup> November, 2010 the minor was discharged to the applicant. According to the report, no one was able to claim the child and the case committee of Little Angels Network on 20.2.2013 declared the minor free for adoption vide certificate number [xxxx] issued on the same day.

6. **Emily Kimanzi** is the Sub County Children 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 applicant was married and separated with her husband CK. It was observed that she had been residing with the minor and the minor seemed to have bonded well with her. The applicant felt that she was in a position to take care of BABY FN and was willing to take on the responsibility. Her conclusion is that the applicant is well suited to adopt BABY FN . On 24.9.2019, she filed a favourable report dated 19.7.2019 as to the suitability of the Applicant to adopt BABY FN . She appeared before me on 24.9.2019 to recommend the applicant's application and sought to have the report dated 19.7.2019 in respect of a home visit that she undertook confirming the suitability of the applicant to be adopted in the instant proceedings.

7. On 19.6.2019, GE appeared in court to recommend the applicant's application and to confirm the suitability of the applicant vide a report dated 20.2.2013 to adopt the minor. **BMM and LNM** appeared before me on 19.6.2019 to confirm and rely on the contents of their affidavits and willingness to take up their duties as legal guardians as well as recommend the applicant to adopt **Baby FN**. The said legal guardians appeared to understand their roles quite well and are suitable to act as such. The applicant also appeared before me on 19.6.2019 and relied on her affidavit to support the application and indicated willingness to adopt and cater for the needs of the minor.

8. This court is satisfied that the Applicant is a suitable persons to adopt **Baby FN** and that she is financially stable and has the means to provide and care for her. I also find that it is in the best interest of the child to allow the application. The baby has really bonded with her.

For the above reasons, the court orders as follows;

1. **THAT the Applicant be and is hereby authorized to adopt BABY FN and the baby be known as FKS.**
2. **THAT BMM and LNM be and are hereby appointed Legal Guardians 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.**

Dated and delivered at **Machakos** this 25<sup>th</sup> day of **November, 2019**.

**D. K. Kemei**

**Judge**