



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI

ADOPTION CAUSE NO. 164 OF 2014

IN THE MATTER OF THE CHILDREN'S ACT NO. 8 OF 2011

IN THE MATTER OF AN APPLICATION FOR THE ADOPTION OF A FA

BY

LWT (APPLICANT)

JUDGMENT

1. The Applicant LWT is a spinster and does not have any children. She wished to adopt the female child known as FA through the summons dated 13th June, 2014. From the pleadings, the court gathers that the applicant is a Freelance Legal clerk in Nairobi. She resides in Githurai 45 in Kiambu County and professes the Christian faith.

2. The records before the court indicate that the minor was presumably born on 15th March, 2005 to one LK. She was admitted at the Kenyatta National Hospital along with the mother on 2nd December, 2005 due to gastro enteritis and protein energy malnutrition. She was reported to have been abandoned on 25th December, 2005 at the hospital. The matter was reported to Kenyatta Hospital Police Post where it was booked as OB No. [xxxx]. She stayed at the hospital until 17th January, 2006 when she was admitted at the Happy Life Children's Home for further care and protection.

3. On 22nd March, 2006, the Senior Resident Magistrate sitting in Nairobi committed the child vide P & C 39 of 2006 to Happy Life Children's Home. On 11th May, 2006 Kenyatta Police Post issued a final letter in which they confirmed that the biological parents of the child were not traced, nor did anyone come forward to claim the child. The minor was later admitted at the Thomas Barnardo House on 20th September, 2006 for purposes of care placement pending adoption. On 9th November, 2006 the Applicant took the child for purposes of foster care with a view of adopting. A foster care agreement was signed on 9th November, 2006.

4. Prior to the hearing of the adoption application, Kenya Children's Home Adoption Society prepared and filed a report dated 5th November, 2010. They also issued a Certificate Serial No. [xxxx] dated 1st November, 2006 declaring the child free for adoption. The guardian ad litem JWG filed a report which was favourable and recommended the adoption of the child by the Applicant

5. An officer from the office of the Director of Children Services conducted home visits and established that the applicant is financially and emotionally capable of providing for the upkeep and education of the child. She filed a report dated 18th March, 2019 recommending the adoption for reasons that the child stands to gain from the opportunities provided by becoming the daughter of the Applicant and that the Applicant has fulfilled the statutory requirements.

6. This is a local adoption and from the record the Applicant has fulfilled all the legal requirements relating to the adoption of the child. The consent of the biological parents was dispensed with since the child was abandoned at infancy and the parents could not be traced to give the consent. The child was in court during the hearing and appeared to have bonded well with the Applicant. The minor is now 14 years and upon being interviewed by the Court, the Court observed that she understood what the process of adoption involved. She gave her consent to be adopted and stated that she was happy with the prospective adoptive mother.

7. I have examined the evidence herein against the litmus test of the best interest of the child as required in Article 53 (2) of the Constitution and Section 4 (2) & (3) of the Children's Act. Consequently my considered view is that it is in the best interest of the child to be adopted by the Applicant. Reasons wherefore, I allow the prayers sought in the amended Originating Summons dated 13th June, 2014 and Order as follows:

- i. The Applicant LWT be and is hereby allowed to adopt FA (minor) who shall henceforth be known as JWW.
- ii. Her date of birth shall be presumed to be 15th March, 2005. She is presumed to have been born in Kenya in accordance with

Article 14(4) of the **Constitution**, and the place of birth shall be Nairobi.

iii. MGM and CWG are hereby appointed as the legal guardians in the event that the Applicant dies, or is incapacitated by ill health.

iv. The Registrar General is directed to enter this Order in the Adopted Children Registry.

v. The Director of Immigration is hereby authorised to issue the child with a Kenyan Passport.

vi. The guardian ad litem is hereby discharged.

SIGNED DATED AND DELIVERED IN OPEN COURT THIS 23RD DAY OF DECEMBER, 2019.

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L. A. ACHODE

HIGH COURT JUDGE

In the presence ofAdvocate for the Applicant