



REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA AT MACHAKOS
ADOPTION CAUSE NO 13 OF 2017
AND
IN THE MATTER OF THE CHILDREN ACT
AND
IN THE MATTER OF BABY B

J N N1ST APPLICANT

E M M2ND APPLICANT

RULING

1. By an Originating Summons dated 22nd June, 2017 the Applicants herein **J N N** and **E M M** sought for an order to adopt baby **B** whom they sought to rename her as **J M N**. The Applicants duly complied with the provisions of Section 158 and 159 of the Children's Act 2001.

2. The Applicants in compliance with the provisions of the children Act 2001 duly secured one **J N** who agreed to be appointed as Guardian Ad Litem and they further secured one **D S** to be appointed as the legal guardian of the child sought to be adopted.

3. The Applicants herein are Kenyan adult citizens who have been married to each other since the year 2001 under Christian Marriage and Divorce Act. They are residents of Kyando – Kathiani within Machakos County in the Republic of Kenya and in their originating summons they had sought for the following prayers:-

(i) That the requirements of section 158(4) (a) of the children's Act be waived as provided for Section 159(1) of the Act.

(ii) That **J N** in the said Republic be appointed as Guardian ad litem in this case.

(iii) That the Applicants be authorized to adopt baby **B** and the known as **J M N**.

(iv) That **D S** be appointed the legal guardian of the child.

(v) That the Director of Children's Department do investigate the case and file a report.

(vi) **AND 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:-

4. Prayer (i) of the said Originating Summons was granted during the hearing held on 16/1/2018, after an examination by the Court of the guardian *ad litem*, as was prayer (ii). The Court during further hearing held on 17/1/2018 admitted as evidence a declaration report by Kenya Children's Homes Adoption Society Report dated 20/07/2017 and filed in court on 30/10/2017, The guardian *ad litem*'s statement dated 2nd November, 2017 and filed in Court on the same date. The proposed guardian *ad litem* and legal guardian also filed affidavits in Court giving their consent to their respective appointments.

5. Baby B is a male child born on 17th September, 2014 at Ngara Health Centre. The infant's biological mother L N A A offered the child for adoption as she was not in a position to raise the child and she signed the Certificate of Acknowledgement on 1st August, 2014. She duly signed the requisite consent. Baby B was handed over to the custody of Thomas Barnado House as a child in need of care and protection after discharge from Ngara health Centre on 19th September, 2014. **Baby B** was committed to Thomas Barnado House at the Nairobi Children's court on 19th December, 2014.

6. The Applicants approached the Kenya Children's Home Adoption Society in on 7th October, 2014 for ratification for placement with a child with a view to eventual adoption. The Applicants were approved to be suitable adoptive parents and placed with Baby B on 3rd November, 2016.

7. The reports filed in Court confirm that the Applicants are mature and responsible, and have bonded well with **Baby B**, and all of them recommend the adoption. Having evaluated the facts of this adoption application, I note that it is seeking a local adoption and that the Applicants are joint married applicants who are at least 25 years of age and under the age of 65 years, and who wish to adopt a male child. They have therefore met the requirement set under Section 158 (1), (2) and (3) of the Children Act.

8. This court is also satisfied that the Applicants are qualified and able to take care of the child. The home visits by the guardian *ad litem*, the Adoption Society and the Children Officer established that the Applicants have the financial capability to provide for the upkeep and education of the child. The reports filed in Court pursuant to these visits also do recommend the Applicants' adoption of **Baby B**. Lastly, I observed the Applicants with Baby B in court, and it was evident that they had bonded well and that the said child is well taken care of.

9. This Court therefore forms the opinion that it would be in the best interest of **Baby B** to be adopted by the Applicants. Consequently, the Applicants shall assume all parental rights and duties of the biological parents in respect of the adopted child, and shall treat the adopted child as if he was born to them. The Applicants have also been made aware that once the adoption order is made it shall be final and binding during the lifetime of the child, and that the child shall have the right to maintenance and to inherit their property. The adoption order once made is absolute and irreversible, and the Applicants cannot give up the child owing to any subsequent unforeseen condition or other changes in the child.

10. I accordingly allow the application for adoption and order as

follows:

1. The Applicants, J N N and E M M are hereby allowed to adopt Baby B.

2. The child shall henceforth be known as J M N.

3. D S shall be the legal guardian of the child should such eventuality arise.

4. As the child was born in Kenya, he is hereby declared a Kenyan citizen by birth.

5. The Registrar-General is directed to enter this adoption order in the adoption register.

6. I hereby forthwith discharge the guardian ad litem.

It is so ordered.

Dated, signed and delivered in open court at Machakos this **19th day of January, 2018.**

D.K. KEMEI

JUDGE

In the presence of:-

Muia for the Applicants

Kituva: Court Clerk