



REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA AT NAIROBI
FAMILY DIVISION
ADOPTION CAUSE No 56 of 2017
IN THE MATTER OF THE CHILDREN ACT 2001
AND IN THE MATTER OF BABY B N
IN THE MATTER OF AN APPLICATION FOR ADOPTION BY
L N K APPLICANT

J U D G M E N T

The Application

1. The Court has before it an application seeking an Order authorising the Applicant to adopt the child the subject of these proceedings. The Applicant is a single lady and therefore is making a sole application.
2. The Application is brought by an Originating Summons is dated 21st April 2017 and filed on 24th April 2017. It is seeking the prayers set out therein. It seeks the following prayers:
 1. Spent
 2. Spent
 3. THAT the Applicant be authorised to adopt BABY B N to be known as M V W
 4. THAT D W M and G M K be appointed legal guardians of the child in the event of the death or incapacity of the Applicant before the child is of age
 5. THAT the child be presumed to be a Kenya Citizen by birth
 6. THAT the Registrar General be directed to enter the adoption in the Adopted Children Register.
 7. THAT the court be pleased to make any further orders it deems necessary.

3. The Application is supported by the Applicant's Statement and Affidavit in Support. The Court also has before it the Reports of the Child Welfare Society of Kenya, the Director of Children's Services and the Guardian ad Litem. From the Reports and Statements together with Exhibits the Court can garner the history and salient facts of this Case.

4. The Applicant is a Businesswoman. She is single but comes from a large family and is close to her siblings. She also owns property which she rents out and receives a regular income. She lives in rented accommodation in Kiambu. She was assessed by the Child Welfare Society of Kenya as qualified to adopt and able to provide for the Child. She is of good health and financial standing. She has exhibited at *[particulars withheld]* a Certificate of Good Conduct.

5. The Child is an abandoned Child. She was born on 2nd December 2007 at Thika District Hospital. She was then left abandoned at the Out Patients Department of the Hospital on the same day. She was found to be well and of good health. Efforts to find her birth family were unsuccessful. The matter was reported to Thika Police Station and was recorded under Occurrence Book No *[particulars withheld]*. She was then placed at the Happy Life Home on 18th December 2007. There is no explanation for the delay in finding her a place of safety. It may be the Children's Officer was not available. It was not until 14th January 2008 that she was committed to the Happy Life Home pursuant to a Care and Custody Order under Care and Protection Case No 4 of 2008. Again the delay is not explained.

6. The Applicant was assessed to be suitable on 21 November 2008 and the Child was placed with her on the same day under temporary fostering placement. Investigations to find the Birth Family have not proved fruitful. The First Police Letter is dated 14th December 2007 and the Final Letter on 18th July 2008. The Child Welfare Society has made inquiries of its own including through advertisement in the print media. No one has come forward.

7. The Placement has therefore continued for 9 years without any efforts being made to change that status. In any event, the Child was freed for Adoption on 17th March 2017. The various agencies have visited the family and their observations are that the Child is healthy and well cared for. The Applicant has provided for her and her schooling. The observation that the child is engaging and well brought up is said to be testament to that good upbringing. The Child and the Applicant are so close that it is said they are "like mother and daughter". They live in a rented house which has adequate accommodation and facilities and space for the child to play. The child also takes part in various physical activities outside school.

8. The Applicant says that she is committed to the Child and wishes to proceed with the Adoption. The Applicant's commitment can be seen clearly from her bringing up the Child for 9 years without any certainty as to the end of the process. In addition, she repeatedly attended Court to ask for the Judgment to be delivered. The delay is regretted but it was unavoidable as the Judge was indisposed.

9. The Child is observed to be healthy and happy and well adjusted in her placement. Given the passage of time, it is clear that the Child must be provided with an alternative stable family care. The Guardian ad Litem also reports that the Applicant and Child are close and the Child is thriving in the Applicant's care.

10. The Applicant wishes to appoint her brother G M K and D W M to be the Legal Guardians of the Child in the event she is unable to care for her. The Applicant also has the support of her other siblings for the adoption. The Applicant would like the Child to be known as M V W once she is adopted. The Applicant has also confirmed that she understands and has no objection to the fact that the Child will inherit from her.

11. In light of the above, this Court makes the following Order:

1. THAT the Applicant be and is hereby authorised to adopt BABY B N and the Child thereafter to be known as M V W;
2. THAT D W M and G M K be appointed legal guardians of the child in the event that the Applicant is unable to take care of her;
3. THAT the child be presumed to be a Kenya Citizen by birth;
4. THAT the Registrar General be and is hereby ordered to make the appropriate entries in the

Adopted Children's Register in respect of M V W.

5. THAT M V W was born in Kenya and is presumed to be a Kenyan Citizen by birth. She is therefore entitled to a Kenyan Passport.

Order accordingly,

FARAH S. M. AMIN

JUDGE

Dated, Delivered and Signed at **NAIROBI** this 21st day of February 2018.

In The Presence of :

Court Clerk: Patrick Mwangi

Counsel for Applicants: Mr Kiranga *instructed by Simiyu, Opondo Kiranga & Co Advocates*