



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT MACHAKOS

ADOPTION CAUSE NO 3 OF 2017

AND

IN THE MATTER OF THE CHILDREN ACT

AND

IN THE MATTER OF BABY B N

R M MAPPLICANT

RULING OF THE COURT

1. By an Originating Summons dated 14/02/2017 and amended on 01/03/2017 the Applicant herein **R M M** sought for an order to adopt baby **B N** whom she sought to rename her as **I M M**. The Applicant duly complied with the provisions of Section 158 and 159 of the Children's Act 2001.

2. The Applicant in compliance with the provisions of the children Act 2001 duly secured one **M M** who agreed to be appointed as Guardian Ad Litem and she further secured one **B M K** to be appointed as the legal guardian of the child sought to be adopted.

3. The Applicant herein is a Kenyan adult citizen. She is a resident of Machakos County in the Republic of Kenya and in her originating summons she 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 M M in the said Republic be appointed Guardian ad litem in this case.

(iii) That B M K in the said Republic be appointed the Legal Guardian of the said child.

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

(v) AND IT IS DIRECTED that the Registrar General shall make in the adopted Children register an entry recording the adopting in accordance with particulars set out in the schedule attached hereto.

4. Prayer (i) of the said Originating Summons was granted during the hearing held on 5th April, 2017, after an examination by the Court of the guardian *ad litem*, as was prayer (ii). The Court during several hearings held on 31/10/2017 and 1/3/2018 admitted as evidence a declaration report by Kenya Children's Homes Adoption Society Report dated 7th February, 2017 and filed in court on 12th April, 2017, A consent by the biological mother **E M M** dated 19th October, 2015 together with a letter from Ministry of Labour Social Security and Services Department of Children Services dated 30th September, 2015 and filed in court on 21st February, 2017 were also adopted by the Court as evidence during the said hearings. The proposed guardian *ad litem* and legal guardian also filed affidavits in Court giving their consent to their respective appointments.

5. Baby **B N** is a female child who was born on 5th September, 2015 at Mercy Light Hospital- Kiambu. Her biological mother one **E M M** handed over the child to the custody of Thomas Barnardo House as a child in need of care and protection on 7th September, 2015.

6. The Applicant approached the Kenya Children's Home Adoption Society in May, 2016 for ratification for placement with a child with a view to eventual adoption. The Applicant was approved to be suitable adoptive parent and placed with **Baby B N** on 22nd October, 2016.

7. The reports filed in Court confirm that the Applicant is a mature and responsible, and have bonded well with **Baby B N**, 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 Applicant is at least 25 years of age and under the age of 65 years, and who wish to adopt a female child. She has therefore met the requirement set under Section 158 (1), (2) and (3) of the Children Act.

8. This court is also satisfied that the Applicant is 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 Applicant's adoption of **Baby B N**. Lastly, I observed the Applicant with **Baby B N** 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 N** to be adopted by the Applicant. Consequently, the Applicant shall assume all parental rights and duties of the biological parent in respect of the adopted child, and shall treat the adopted child as if she was born to her. The Applicant 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 Applicant 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 Applicant, R M M is hereby allowed to adopt Baby B N.***
2. ***The child shall henceforth be known as I M M.***
3. ***B M K shall be the legal guardian of the child should such eventuality arise.***
4. ***As the child was born in Kenya, she 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 at Machakos this 9th day of March, 2018.

D.K. KEMEI

JUDGE

In the presence of:-

Hassan for Kilonzo - for the Applicant

Kituva - Court Clerk