



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT MACHAKOS

ADOPTION CAUSE NO 17 of 2017

AND

IN THE MATTER OF THE CHILDREN ACT

AND

IN THE MATTER OF BABY M T

J N KAPPLICANT

RULING OF THE COURT

1. By an Exparte Chamber Summons dated 8th September, 2017 the Applicant herein J N K sought for an order to adopt baby **M T** whom she sought to rename him as **MKW**. 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 **P M N** who agreed to be appointed as Guardian Ad Litem and they further secured one **C M M** to be appointed as the legal guardian of the child sought to be adopted.

3. The Applicant herein is a Kenyan adult citizen who is a resident of Machakos Town within Machakos County in the Republic of Kenya and in her Exparte originating summons she had sought for the following prayers:-

i. That the Applicant, J N K be authorized to adopt the child currently identified and known as baby M T.

ii. That the child be renamed M K W.

iii. That the child be presumed to be a Kenyan citizen, and as a consequence, be entitled to the rights and benefits of a Kenya Citizen, including being issued with a Kenyan passport whenever desired.

iv. That the Registrar General makes the appropriate entries in the Adopted Children Register.

v. That E M K and V N M be deemed to the appointed legal guardians in respect of the child.

vi. That this court do issue such further orders as are in the interest of justice.

4. Prayer (i) of the said Originating Summons was granted during the hearing held on 30th October, 2012, after an examination by the Court of the guardian *ad litem*, as was prayer (ii). The Court during further hearing held on 1/3/2018 admitted as evidence a declaration report by Kenya Children's Homes Adoption Society Report dated 22nd September, 2017 and filed in court on 18/10/2017. The guardian *ad litem*'s report dated 5th January, 2018 and filed in court on 22nd February, 2018 together with the Machakos Sub County Children Officer's Report dated 10th January, 2018 and filed in court on 16th January, 2018.

5. Baby M T is a male child who was presumably born on 2nd September, 2010 who was found abandoned by a Good Samaritan who reported the case at Kabras Police station where it was recorded vide Occurrence Book Number [particulars withheld]. The infant was subsequently placed under the care and protection of Tumaini Miles of Smiles Children's Home on 25/3/2011 and a court order formalizing his committal to the said children's home was issued on 21st December, 2016 vide Butali Children's Court Number 138 of 2016. The Kabras Police Station confirmed in a letter dated 10th March, 2017 that their efforts to trace the parents of the child had been futile.

6. The Applicant approached the Kenya Children's Home Adoption Society on 23rd December, 2016 with an intention for being ratified for

placement with a male child with a view to eventual adoption. The Applicant was approved to be suitable adoptive parents and placed with Baby M T on 10th May, 2017.

7. The reports filed in Court confirm that the Applicant is mature and responsible, and have bonded well with Baby M T 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 male 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 Applicants' adoption of Baby M T. Lastly, I observed the Applicant with Baby M T 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 M T to be adopted by the Applicant. Consequently, the Applicant 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 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:

- i. That the Applicant, J N K be authorized to adopt the child currently identified and known as baby M T .*
- ii. That the child be renamed M K W.*
- iii. E M K and V N M shall be the legal guardians of the child should such eventuality arise.*
- iv. As the child was found abandoned in Kenya, he is hereby declared a Kenyan citizen by birth.*
- v. The Registrar General is directed to enter this adoption order in the adoption register.*
- vi. The Guardian Ad litem is hereby discharged.*

It is so ordered.

Dated, signed and delivered at Machakos this 9th day of March, 2018.

D.K. KEMEI

JUDGE

In the presence of:-

Priscillah for Mbuvi - for the Applicants

Kituva - Court Clerk