



**REPUBLIC OF KENYA**

**IN THE HIGH COURT OF KENYA AT MACHAKOS**

**ADOPTION CAUSE NO 21 of 2017**

**AND**

**IN THE MATTER OF THE CHILDREN ACT**

**AND**

**IN THE MATTER OF BABY N M**

**J M M.....1<sup>ST</sup> APPLICANT**

**RULING OF THE COURT**

1. By an Exparte Chamber Summons dated 11<sup>th</sup> October, 2017 the Applicant herein **J M M** sought for an order to adopt baby **N 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 **C N N** who agreed to be appointed as acting Guardian Ad Litem.

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

***(i) C N N is hereby appointed to act as a guardian Ad litem for the baby sought for adoption namely Baby N M.***

***(ii) That the Director of Children services do investigate the Applicant fitness to adopt bay N M and file a report to this court.***

***(iii) That matter is fixed for further hearing on 1<sup>st</sup> March, 2018.***

4. Prayer (i) of the said Originating Summons was granted during the hearing held on 17/01/2018, after an examination by the Court of the guardian *ad litem*, as was prayer (ii). The Court during further hearings held on 1/3/2018 admitted as evidence a declaration report by Kenya Children's Homes Adoption Society Report dated 3/10/2017 and filed in court on 18/10/2017. The undated guardian *ad litem*'s report filed in court on 1<sup>st</sup> March, 2018 and the report by Emily Kimanzi the Sub- County Children's Officer Machakos Children's Office dated 27/02/2018 and filed in court on 28<sup>th</sup> February, 2018 were also adopted by the Court as evidence during the hearings. Also the proposed guardian *ad litem* giving her consent to the respective appointment was also adopted.

5. **Baby N M** is a male child who was born on 9<sup>th</sup> October, 2013 at Murufec CHC. The biological mother A B and the father N M offered out the child for adoption. The child was handed over to the custody of Rehema Pefa Home as a child in need of care and protection on 16<sup>th</sup> October, 2013 and committed to Rehema Pefa Home at Kakamega Children's Court on 25<sup>th</sup> October, 2013.

6. The Applicant approached the Kenya Children's Home Adoption Society in February, 2017 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 N M on 9<sup>th</sup> December 2008. 6<sup>th</sup> June, 2017.

7. The reports filed in Court confirm that the Applicant is mature and responsible, and have bonded well with Baby N M 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 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 N M. Lastly, I observed the Applicant with Baby N M 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 N M 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 them. 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, **J M M** is hereby allowed to adopt **Baby N M**.*
- 2. The child shall henceforth be known as **N M M**.*
- 3. **C N N** shall be the guardian ad litem of the child should such eventuality arise.*
- 4. **P M M** shall be the legal guardian of the child due for adoption should such eventuality arise.*
- 5. As the child was born in Kenya, he is hereby declared a Kenyan citizen by birth.*
- 6. The Registrar General is directed to enter this adoption order in the Children's Adoption register.*
- 7. The Guardian Ad litem is hereby discharged*

It is so ordered.

**Dated, signed and delivered at Machakos this 9<sup>th</sup> day of March, 2018.**

**D.K. KEMEI**

**JUDGE**

**In the presence of:-**

Priscillah for Mbuvi for the Applicant

Kituva - Court Clerk