



REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA
AT MACHAKOS
ADOPTION CAUSE NO 6 OF 2014

AND

IN THE MATTER OF THE CHILDREN ACT

AND

IN THE MATTER OF BABY P

F K M.....1ST APPLICANT

R N K.....2ND APPLICANT

RULING OF THE COURT

1. By an Originating Summons dated 23/08/2014 the Applicants herein **F K M** and **R N K** sought for an order to adopt baby **P** whom they sought to rename him as **C M K**. 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 **C M K** who agreed to be appointed as Guardian Ad Litem and they further secured one **S M M** 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 August, 1995 under the African Christian Marriage and Divorce Act. They are residents of Kitui Town within Kitui County in the Republic of Kenya and in their originating summons they had sought for the following prayers:-
 - i. That **C M K** of P. O. Box *** Kitui in the in Republic of Kenya be appointed Guardian ad litem in this case.
 - ii. That the Director – Children's Department, Office of the Vice President, Ministry of Home affairs investigates the Applicant's fitness to adopt and files a report.
 - iii. That **S M M** in the said Republic be appointed the Legal Guardian of the said child.
 - iv. That the Applicants be authorized to adopt baby P and the baby be known as **C M K**.
 - v. **THAT** the court be pleased to make any further orders it deems necessary.

4. Prayer (i) of the said Originating Summons was granted during the hearing held on 6/4/2017 after an examination by the Court of the guardian *ad litem*, as was prayer (ii). The Court during the further hearing on 1/3/2018 admitted as evidence a declaration report by Kenya Children's Homes Adoption Society Report dated 8th May, 2014 and filed in court on 12th May, 2014, the report prepared by Mrs Jacinta Mwinzi the Kitui County Children Officer dated 10/06/2017 and filed in court on 01/03/2018 together with a report by C M K the Guardian Ad litem were also adopted by the Court as evidence during the said hearing.

5. **Baby P** is a male child who was presumably born on 9th June, 2008. He was abandoned at Kariobangi Police Post. The matter was recorded at the Kariobangi Police Post on 9th June 2008 where it was recorded vide OB Number ***. The minor was thereafter referred to Missionaries of Charity – Huruma where he was admitted for care and protection as an abandoned child on the same day of abandonment and was given the name P on admission. The minor was then committed at the Nairobi Children's Court in the Senior Resident Magistrate's to the care of the said home on 5th September, 2008 under Protection and Care Case No. *** of 2008. The police issued the home with a clearance letter dated 17th November 2008 through Muthaiga police station where they asserted that their efforts to trace the parents of the minor were futile.

6. The Applicants approached the Kenya Children's Home Adoption Society on 12th June, 2009 for ratification for placement with a male child with a view to eventual adoption. The Applicants were approved to be suitable adoptive parents and placed with **Baby P** on 21st December, 2009.

7. The reports filed in Court confirm that the Applicants are mature and responsible, and have bonded well with **Baby P** 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 female 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 P**. Lastly, I observed the Applicants with **Baby P** 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 P** 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:

- i. The Applicants **F K M** and **R N K** are allowed to adopt **Baby P**.
- ii. The child shall henceforth be known as **C M K**.
- iii. **S M M shall be the legal guardian 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:-

Priscilla for Kalunga for the Applicants

Kituva - Court Clerk