



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI

MILIMANI LAW COURTS

FAMILY DIVISION

ADOPTION CAUSE NO. 129 OF 2017

IN THE MATTER OF THE CHILDREN ACT, 2001

AND

IN THE MATTER OF ADOPTION OF CHILD B T

AND

IN THE MATTER OF AN APPLICATION FOR ADOPTION BY

P B A.....1ST APPLICANT

M N M.....2ND APPLICANT

JUDGMENT

1. The applicants are a Kenyan couple, aged 48 and 38. The 1st applicant is a civil servant currently working with [particulars withheld], Kisii County Government while the 2nd applicant is self-employed. They are married but have not been blessed with children. They filed this originating summons on 13th September, 2017 seeking to be allowed to adopt a female child, who is estimated to have been born on 10th June, 2015.

2. The child B T was on 10th December, 2015 found abandoned within [particulars withheld] School area by a good samaritan. The matter was reported to the Administration Kayole Police vide O.B No. [particulars withheld]/2015. The child was admitted to Imani Children's Home for temporary care and protection on 10th December, 2015. On 9th March, 2016, the child was formally committed to Imani Children's Home through the Children's Court in Nairobi under Protection and Care Cause No.27 of 2016. The final police letter dated 7th November, 2016 stated that no claim had been made by the child's biological parents or family. The child was declared free for adoption under **section 156(1)** of the **Children's Act** by Buckner Kenya Adoption Services on 9th November, 2016 and was placed under the care of the applicants for mandatory bonding prior to adoption. She has been under the continuous care of the applicants since 13th November, 2016.

3. The court on 20th November, 2017 appointed G W G as guardian *ad litem* and ordered that she files a report after carrying out a social inquiry on the applicants. A similar report was sought from the Director of Children Services. Both reports were duly filed, and each recommended that the applicants be allowed to adopt the child. The reports found that the applicants were socially, emotionally and financially stable and suitable to adopt the child. It was also found that the child and the applicants had bonded well.

4. The court finds that it is in the best interests of the child to be adopted by the applicants. The applicants have demonstrated their ability to provide a conducive home and family environment in which the child will grow and develop. They will assume all parental rights and obligations of the biological parents of the child once adopted, and shall treat her as if she was borne of them. They have been made aware that once the adoption order is made, it shall be final and binding during the lifetime of the child. The child shall have the right to inherit their property. The applicants shall not be able to give up the child owing to any subsequent unforeseen behaviour or other changes in the child. This court dispenses with the consent of the child's biological parents as the child was found abandoned.

5. Having been satisfied that all the legal requirements for a local adoption under the **Children Act** have been met, the following orders shall issue:-

- a. the applicants P B A and M N M are hereby allowed to adopt child B T;
- b. child B T shall henceforth be known as P K B;
- c. the child's date of birth shall be 10th June, 2015, and shall be presumed Kenyan by birth having been found abandoned within [particulars withheld] School area in Kenya;
- d. H M N and Y N M are hereby appointed to be the child's legal guardian in the event of death or incapacity of the applicants before she is of full age and fully self-reliant;
- e. the Registrar-General is directed to enter this adoption in the Adopted Children Register; and
- f. the guardian *ad litem* is hereby discharged.

DATED and SIGNED at NAIROBI this 6TH day of MARCH 2018.

A.O. MUCHELULE

JUDGE

DATED and DELIVERED at NAIROBI this 8TH day of MARCH 2018.

R.E. OUGO

JUDGE