

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI

(FAMILY DIVISION)

ADOPTION CAUSE NO. 215 OF 2015

IN THE MATTER OF AN APPLICATION FOR ADOPTION OF BABY M

JUDGEMENT

1. The applicant, R M M, is a Kenyan citizen. She seeks to adopt Baby M. Her Originating Summons is undated, but was filed herein on 3rd September 2017.

2. The child in question was born at Kenyatta National Hospital on 10th February 2013 to a known mother, who later gave him up for adoption on the grounds that he was a taboo child having been conceived of an incestuous relationship. The birth mother has signed the relevant consent papers to give up her rights over the child. The father of the child never acknowledged paternity. The child was rescued by the Child Welfare Society of Kenya and was temporarily placed with the Mama Ngina Children's Home for care and protection. He was later committed to that institution by the Nairobi Children's Court. .

3. The child was freed for adoption by the Child Welfare Society of Kenya by their certificate number [particulars withheld] of 20th February 2018. The child was placed with the applicant on 8th November 2013 for bonding purposes.

4. To facilitate this adoption, the applicants have been assessed by the Child Welfare Society of Kenya, the Director of Children Services and the guardian *ad litem*, J N W. The three have compiled and filed their reports in court. That of the Director of Children Services is dated 1st September 2017, while that of the Child Welfare Society of Kenya is dated 20th February 2017. The report by the guardian *ad litem* is undated but was filed in court on 6th October 2017.

5. All these reports are favourable and recommend the proposed adoption. The applicant has demonstrated that she has the financial and emotional capability and capacity to take care of the child. The child himself appears to have bonded well with her and he considers her to be his mother.

6. In note that this is an application where a female applicant seeks to adopt a male child. It has been brought to my attention that special circumstances do exist in favour of the proposed adoption. It was pointed out to me by the adoption agency arranging the proposed adoption that male children stand high chances of remaining institutionalised as not so many applicants are eager to adopt them. The applicant herein is said to be the only person who showed interest in the subject child. I am satisfied that special circumstances do exist in this case to warrant the adoption of the male child herein by the female applicant.

7. In the opinion of this court it would be in the best interests of the child that he is adopted by the applicant. The applicant will be able to provide a home and a family for the child to grow up in and thereafter be a useful member of the family. Consequently, the applicant shall assume all parental rights and duties of the biological parent in respect of the adopted child; she shall treat the adopted child as if he was born to her. The applicant has 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 inherit her property. The applicant cannot give up the child owing to any subsequent unforeseen behaviour or other changes in the child.

8. I am satisfied that all the legal requirements for a local adoption have been met, and I therefore make the following orders:-

- (a) That the applicant, R M M, is hereby allowed to adopt the child Baby M, who shall hereafter be known as P M M M;**
- (b) That the said child is hereby declared to be Kenyan by having been born on 10th February 2013;**
- (c) That P M M is hereby appointed legal guardian of the child in the event something untoward happens to the applicant;**
- (d) That the Registrar-General is hereby directed to enter this adoption order in the adoption register; and**
- (e) That the guardian *ad litem* is hereby discharged.**

DATED, SIGNED and DELIVERED at NAIROBI this 20TH DAY OF APRIL, 2018.

W. MUSYOKA

JUDGE