

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI

ADOPTION CAUSE NO.77 OF 2016

IN THE MATTER OF BABY A U.....THE CHILD

AND ON THE APPLICATION FOR AN ADOPTION ORDER BY

J W K.....APPLICANT

JUDGMENT

J W K (“the Applicant”) is a sole female applicant. The Applicant is a secretary at [particulars withheld]. She currently resides at [particulars withheld]. She is divorced and has no biological children of her own. The Applicant has not been blessed with children due to medical reasons hence, she has decided to explore the alternative of adoption.

The Applicant filed an application, through Originating summons dated 22nd January 2016, seeking to adopt Baby A U (“the child”). The child who is the subject of the present adoption proceedings was born on the 21st of August 2014 at Padens Medical Centre, Kangemi. The biological mother, D A voluntarily handed over the child to the Kenya Children’s Homes Adoption Society for adoption as evidenced by the consent and affidavit dated 14th October 2014. She cited her unpreparedness to parent and financial inability to raise the child as reasons she was offering the child for adoption.

The child was handed over to the custody of House of Charity Children’s Home as a child in need of care and protection on 21st August 2014. The Senior Resident Magistrate Children’s Court sitting at Nairobi, in accordance with Section 119 of the Children Act, committed the child to House of Charity Children’s Home on the 4th of February 2015 vide P&C No 32 of 2015.

Prior to placement, the child was declared free for adoption by the Kenya Children’s Home Society on 22nd April 2015 and a freeing certificate serial number [particulars withheld] was issued in compliance to section 156(1) of the Children Act. The child was later placed by the Kenya Children’s Homes Adoption Society in the temporary foster care of the Applicant on the 8th of May 2015.

The Applicant filed an application for adoption on the 22nd of January 2016, seeking among others, orders from this Court that M K be appointed Guardian ad litem, the Director-Children’s Department, Office of the Vice President, Ministry of Home Affairs investigates the applicant’s fitness to adopt and file a report and further that Baby A U be known as G A W. The Applicant also sought to have the Court appoint S M K as the child’s legal guardian.

On 22nd September 2016, this Court issued an order appointing M K as the guardian *ad litem* and further directing the Director of Children’s Services to prepare and present a report to the fitness of the applicant to adopt the baby within 45 days.

Prior to the hearing of the adoption case, the Director of Children’s Services and the guardian ad litem, M K prepared a report which is on the Courts record. All the statutory reports on the suitability of the Applicant to adopt the child are favourable and recommend that the Court allows the applicants to adopt the child.

The Applicant has been duly assessed and has been found capable to adopt the child. She is both socially and economically capable to provide parental responsibility. This is evidenced by the declaration report

which indicates that she was previously a nursery school teacher thus she is capable to relate with children. Further, the applicant's family knows about the adoption and are supportive of the same. The home visits by the guardian ad litem, the Kenya Children's Homes Adoption Society and the officer from the Director of the Children Services has established that the applicant has the financial and emotional capability to provide for the upkeep and education of the child. It was evident that in the period that the applicant has had the custody of the child, the child has bonded well with her. The child considers the applicant as her only parent.

This court therefore forms the opinion that it would be in the best interest of the child to be adopted by the applicant. I allow the application for adoption. The applicant, J W K, is hereby allowed to adopt Baby A U. She is a Kenyan citizen by birth, born in Kangemi in Nairobi County. She shall henceforth be known as G A W. S M K, a sister of the applicant, shall be the legal guardian of the child should misfortune befall the Applicant. I direct the Registrar General to enter this order in the adoption register. I hereby discharge the guardian ad litem. It is so ordered.

DATED AT NAIROBI THIS 16th DAY OF April, 2018

M. MUIGAI

JUDGE