



**REPUBLIC OF KENYA**

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

**ADOPTION CAUSE NO 23 OF 2017**

**AND**

**IN THE MATTER OF THE CHILDREN ACT**

**AND**

**IN THE MATTER OF BABY L A**

**D M M.....APPLICANT**

**RULING OF THE COURT**

1. By an Originating Summons dated 9<sup>th</sup> November, 2017 filed in court on 13<sup>th</sup> November, 2017 the Applicant herein **D M M** sought for an order to adopt baby **L A** whom she sought to rename her as **G 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 **D M M** who agreed to be appointed as Guardian Ad Litem of the child sought to be adopted.

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

(i) *THAT the Applicant **D M M** be authorized to adopt the child currently indentified and known as **BABY L A**.*

(ii) *THAT the child be renamed **G N M**.*

(iii) *THAT the child be presumed to be a Kenyan Citizen, and a consequence, be entitled to the rights and benefits of Kenyan citizen, including being issued with a Kenyan passport whenever desired.*

(iv) *That the Registrar General makes the appropriate entries in the adopted Children Register.*

(v) *THAT **P K M** and **M K K** be deemed to the appointed legal guardians in respect of the child.*

(vi) *THAT this court do issue such further orders as are in the interest of justice.*

4. Prayer (i) of the said Originating Summons was granted during the hearing held on 18/01/2018, after an examination by the Court of the guardian *ad litem*, as was prayer (ii). The Court during further hearings held on 11/4/2018 admitted as evidence a declaration report by Kenya Children's Homes Adoption Society Report dated 20<sup>th</sup> November, 2017 and filed in court on 31/01/2018. The guardian *ad litem*'s report dated 21<sup>st</sup> March, 2018 filed in court on 11<sup>th</sup> April, 2018 and the report by Josephine Wairimu Hinga the Sub- County Children's Officer Kathiani Children's Office dated 8<sup>th</sup> March, 2018 and filed in court on the same date were also adopted by the Court as evidence during the hearings. Also the report of the proposed guardian *ad litem* giving her consent to the respective appointment was also adopted.

5. **Baby L A** is a female child who was born on 14<sup>th</sup> June, 2011. She was found abandoned at St. [particulars withheld] Primary School fence on 17<sup>th</sup> June, 2011 and was rescued by one of the St. Mary's Hospital worker and a Priest. She was taken to St. Mary's Hospital Mumias and was received at Mumias Health facility. The matter was reported at the Mumias police station and recorded vide Occurrence Book Number [particulars withheld]. The baby was handed over to Mumias Children's Officer who sought placement of the child at Mumias Kids Centre and a vacancy was availed and the child was admitted to the said Centre on 22<sup>nd</sup> June, 2011 and named **L A** upon admission. **Baby L A** was committed to Mumias Kids Centre for Care and Protection at the Mumias Children's Court on 21<sup>st</sup> December,

2011 vide **Protection and Care Case Number 21 of 2011.**

6. The Applicant approached the Kenya Children's Home Adoption Society on 2<sup>nd</sup> May, 2017 with an intention of being ratified for placement with two children with a view to eventually adopting. The Applicant was approved to be suitable adoptive parent and placed with **Baby L A** on 7<sup>th</sup> July, 2017.

7. The reports filed in Court confirm that the Applicant is mature and responsible, and have bonded well with **Baby L A** 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 is at least 25 years of age and under the age of 65 years, and who wishes to adopt a female 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 Applicant has 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 L A**. Lastly, I observed the Applicant with **Baby L A** 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 L A** 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 she was born to her. The Applicant has 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 her 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, **D M M** is hereby allowed to adopt **BABY L A**.*
2. *The child shall henceforth be known as **G N M***
3. ***P K M and M K K** shall be the legal guardians of the child due for adoption should such eventuality arise.*
4. *As the child was born in Kenya, she is hereby declared a Kenyan citizen by birth.*
5. *The Registrar General is directed to enter this adoption order in the Children's Adoption register.*
6. *The Guardian Ad litem is hereby discharged.*

It is so ordered.

Dated, signed and delivered at Machakos this 13<sup>th</sup> day of April, 2018.

**D.K. KEMEI**

**JUDGE**

**In the presence of:-**

Langalanga for Mbuvi - for the Applicant

Kitutva - Court Assistant