



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT MACHAKOS

ADOPTION CAUSE NO 11 OF 2017

AND

IN THE MATTER OF THE CHILDREN ACT

AND

IN THE MATTER OF BABY S S

K G.....1ST APPLICANT

T W.....2ND APPLICANT

RULING OF THE COURT

1. By an Originating Summons dated 19th June, 2017 the Applicants herein **K G** and **T W** sought for an order to adopt baby **S S** whom they sought to rename her as **E W G**. 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 **S K M** who agreed 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 2003 through customary marriage and solemnized it in the year 2009 through a church wedding. They are residents of Kangundo in the Republic of Kenya and in their originating summons they had sought for the following prayers:-

*i. That the consent of the biological parents of **S S** be dispensed with since the child was abandoned shortly after birth.*

*ii. That the Applicants are hereby authorized to adopt **BABY S S** who shall be known as **E W G**.*

*iii. That **S K M** shall be the Legal Guardian of the said child should such eventuality arise.*

iv. That the Registrar General is directed to enter this adoption order in the adoption register.

*v. THAT baby **S S** be considered as a Kenyan citizen.*

vi. That the court be pleased to make any further orders it deem necessary.

4. Prayer (i) of the said Originating Summons was granted during the hearing held on 16/01/2018 after an examination by the Court of the guardian *ad litem*, as was prayer (ii). The Court during the further hearings on 1/3/2018 and 12/04/2018 admitted as evidence a declaration report by Child Welfare Society of Kenya Report dated 26th day of August, 2016 and filed in court on 3rd October, 2017, the report by Nathan Kyule Mumo a Senior Children Officer Kangundo Sub County dated 28th February, 2018 and filed in court on 1st March, 2018. were adopted by the Court as evidence during the said hearing.

5. **Baby S S** is a female child estimated to have been born on 14th February, 2016. The child was rescued by a Good Samaritan within Muigai area who reported the matter at the Kitengela Police Station. She was received at the station and the matter was recorded on the Occurrence Book Ref Number: OB [particulars withheld] at 1655 hours. The child was later handed over to the Director Mahali Pa Maisha under the Occurrence Book Number OB: [particulars withheld]. **Baby S S** was admitted at the Mahali Pa Maisha Home on 23rd February, 2016 pending committal. The child was later committed to the Mahali Pa Maisha on 8th March, 2016 by the Principal Magistrate Court Kajiado Protection and Care Number [particulars withheld] for a period of one year. Efforts to trace the child's biological mother were

futile. The minor remained in the children's Home and the Case Committee of Little Angels Network in a meeting on the 26th August, 2016 was satisfied that the **Baby S S** was available for adoption.

6. The reports filed in Court confirm that the Applicants are mature and responsible, and have bonded well with **Baby S S** 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 jointly 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.

7. 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 S S**. Lastly, I observed the Applicants with **Baby S S** in court, and it was evident that they had bonded well and that the said child is well taken care of.

8. This Court therefore forms the opinion that it would be in the best interest of **Baby S S** 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 she 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.

9. I accordingly allow the application for adoption and order as

follows:

1. *THAT the Applicants are hereby authorized to adopt **BABY S S** who shall be known as **E W G**.*
2. *THAT **S K M** shall be the Legal Guardian of the said child should such eventuality arise.*
3. *THAT as the child was born in Kenya she be considered as a Kenyan citizen by birth.*
4. *THAT the Registrar General is directed to enter this adoption order in the adoption register.*
5. *THAT the Guardian Ad litem is hereby discharged.*

It is so ordered.

Dated, signed and delivered at Machakos this **13th** day of **April, 2018**.

D.K. KEMEI

JUDGE

In the presence of:-

K G & T W - Applicants

Kituva - Court Assistant