



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI

MILIMANI LAW COURTS

FAMILY DIVISION

ADOPTION CAUSE NO. 5 OF 2017

IN THE MATTER OF THE CHILDREN ACT 2001

AND

IN THE MATTER OF ADOPTION OF CHILD G W A K. A C H

AND

IN THE MATTER OF AN APPLICATION FOR ADOPTION BY

S M G.....1ST APPLICANT

E W M.....2ND APPLICANT

JUDGMENT

1. The applicants are a Kenyan couple aged 51 and 41, respectively. The first applicant is a driver with [particulars withheld] while the second applicant is a businesswoman. They are married but have not been blessed with children. They filed the originating summons on 2nd February 2017 seeking to be allowed to adopt the female child.

2. Child G W a.k.a C H. was born on 9th October 2013 in Nyeri County to R W. M W N and Z W M, the child's grandmother and aunt, respectively, indicated that the child's biological mother was not able to care for the child because she is mentally challenged and has two other children. Consequently, they opted to give up the child for adoption. The child was admitted to Newlife Children's Home for care and protection on 10th December 2013. The child was formally committed to the care of Newlife Children's Home on 11th December 2013 by the Children's Court in Nyeri vide Protection and Care Cause No.108 of 2013. The child's grandmother and aunt filed consents dated 21st January 2014 and 15th September allowing the child to be adopted. The child was declared free for adoption under **section 156(1)** of the **Children's Act** by the Little Angels Network on 2nd January 2014 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 27th September 2014.

3. The court on 23rd March 2017 appointed M W 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 interest 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. The consent of the child's biological family was granted by the child's mother and aunt.

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 S M G and E W M are hereby allowed to adopt Child G W a.k.a C H;

- b. child G W a.k.a C H shall henceforth be known as C W;
- c. the child's date of birth shall be 9th October 2013, and shall be presumed Kenyan by birth having been born in Kenya;
- d. J K W and W W W are hereby appointed to be the child's legal guardians 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 31st day of MAY 2018

A.O. MUCHELULE

JUDGE