



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA

AT NAKURU

ADOPTION CAUSE NUMBER 19 OF 2016

IN THE MATTER OF BABY MK a.k.a

GK.....INFANT

AND

JKK.....1ST APPLICANT

CN.....2ND APPLICANT

JUDGMENT

The Application is brought by way of Originating Summons and is dated the 1st September, 2016. The Applicants **JKK** and **CN** through their advocate Karen Wanderi & Company Advocates seek the following orders:

1. Spent
2. Spent
3. Spent
4. Spent
5. **THAT** MKK of Post Office box Number **[Particulars Withheld]** in the Republic of Kenya be appointed Legal Guardian of the minor.
6. **THAT** the Applicants be authorized to adopt BABY MK to be known as GK.
7. **THAT** it is directed that the Registrar General shall make in the Adopted Children Register an entry recording the adoption in accordance with the particulars set out in the Schedule to this order.
8. **THAT** the Registrar of Births and Deaths be and is hereby directed to issue the child with a certificate of birth in the name of GK.

The 1st Applicant **JKK** and 2nd Applicant **CN** are husband and wife. The 1st Applicant is an [particulars withheld] while the 2nd Applicant is a [particulars withheld]. The couple resides in **[Particulars Withheld]** Village. Their marriage was solemnized under the Marriage Act (Cap 150) at the Superintendent Registrar's Office in Nakuru District where they were issued with a Certificate of Marriage serial number **[Particulars Withheld]**.

The Applicants have one biological daughter named MC who consented to the adoption of baby **MK a.k.a. GK** as evidenced in her affidavit sworn in Nakuru dated 1st September, 2016. Due to the 2nd Applicant's medical condition who was diagnosed with blocked fallopian tubes they have never sired another child hence the desire to adopt baby **MK a.k.a. GK**.

Baby **MK a.k.a. GK** was presumably born on 20th November, 2009. He was found abandoned on 22nd March, 2019 within Kamenwo Village, Kyogong Location in Bomet by his biological mother who left him with an accomplice one David Rono, a watchman at Alias Kirui Medical Centre. The accomplice later abandoned the baby.

The matter was reported at Bomet Police Station on the same day and was recorded vide Occurrence Book Number 25/23/3/2010. The children department took over the matter where they referred baby **MK a.k.a. GK** to Africa Gospel Church Baby Centre. On 24th March, 2010 baby **MK a.k.a. GK** was committed to the home for care and protection vide Bomet Children's Court Case Number 14/2010 for a period of one year. After lapse of one year the committal order was extended for a period of three years in the Nakuru Children's Court. The home ensured that the child's immunization schedule was followed as per the Expanded Programme Guidelines on immunizations. According to the medical records available it is evident that Baby **MK a.k.a. GK** is in good health and his HIV test result is negative.

A letter from the Chief Kyogong Location, Bomet District dated 6th December, 2013 asserted that efforts to trace the mother or any other relative of the child were all in vain. The Bomet Children's Office in their letter dated 27th October, 2014 and the Bomet Police Station vide their letter dated 6th November, 2012 both confirmed that no one had gone to claim baby **MK a.k.a. GK**. The Police station had made efforts to trace the kindred of the child but their efforts have been futile.

On the 16th January, 2017 the Court ordered the Children's Department, Ministry of Labour, Social Security and Services, Nakuru County to conduct investigations as to the suitability of the Applicants to adopt baby **MK a.k.a. GK**. One **MKK** of Post Office Box Number **[Particulars Withheld]** in the Republic of Kenya was appointed as Guardian *Ad Litem* of baby **MK a.k.a. GK**. The consent of the biological parents to the minor was dispensed with and the child was presumed as a Kenyan citizen.

The Applicants were taken through the Explanatory memorandum of Adopters by the Kenya Children's Home Adoption Society which they confirmed having understood and appended their signatures on the certificate of acknowledgement dated 20th February, 2014. The society's personnel conducted a home visit at the Applicants residence in **[Particulars Withheld]** on 15th August, 2014 where the Applicants were interrogated. They were approved to be suitable persons to adopt baby **MK a.k.a. GK**. On 10th December, 2014 the Kenya Children's Home Adoption Society Case Committee on its sitting declared the minor free for adoption and issued a Freeing Certificate Serial number 1186 pursuant to Section 156(1) of the Children's Act 2001.

The Children's Department also made a home visit on the Applicants on 1st September, 2016 and conducted investigations. The County Children Coordinator in a report to Court dated 11th May, 2017 recommended the Applicants fit to adopt Baby **MK a.k.a. GK**.

Upon reading the above report and satisfying myself that all the legal requirements have been adhered to, this Court is satisfied that the applicants are suitable persons to adopt Baby **MK a.k.a. GK** and that they are also financially stable and have the means to provide and care for him.

For the above reasons, the Court hereby orders as follows:

1. **THAT** **MKK** of Post Office Box Number **[Particulars Withheld]** in the Republic of Kenya be and is hereby appointed as the Legal Guardian of the minor.
2. **THAT** the Applicants be and are hereby authorized to adopt BABY MK to be known as **GK**.
3. **THAT** the Registrar General is hereby authorized to make in the Adopted Children Register an entry recording the adoption in accordance with the particulars set out in the Schedule to this order.
4. **THAT** the Registrar of Births and Deaths be and is hereby directed to issue the child with a certificate of birth in the name of **GK**.

Dated and Signed at **Nakuru** this **29th** day of **May, 2018**.

A. K. NDUNG'U

JUDGE