



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT MURANG'A

ADOPTION CAUSE NO. 3 OF 2017

IN THE MATTER OF THE CHILDREN ACT

AND

IN THE MATTER OF AN APPLICATION FOR ADOPTION

BY J.K.M. AND M.W.K.

AND

IN THE MATTER OF THE ADOPTION OF *BABY G. M. ALIAS W* (MINOR)

JUDGMENT

1. This is an application for a *local adoption*. The applicants, *J.K.M.* and *M.W.K.*, are husband and wife. I will refer to them as the applicants or proposed adoptive parents.
2. The *ex parte* originating summons is dated 4th September 2017. It is brought under the Children Act and the Regulations thereunder (hereafter *the Act and Regulations*). The application is supported by the sworn affidavits of the couple and a bundle of materials filed on 5th December 2017.
3. The minor is a boy aged *four years* or thereabouts. His exact date of birth is *uncertain*. He was *abandoned* immediately after birth at Kenyatta National Hospital on 10th June 2014. The matter was reported to the Kenya Police Service. The minor remained at Kenyatta until his admission into *Happy Life Children's Home* on 22nd July 2014.
4. The biological parents of the minor are *unknown*. A forwarding telephone number provided by the biological mother turned out to be false. I am satisfied from the police records marked *JK17* that the parents *cannot* be traced. The child was placed in protective care through the Ministry of Labour, Social Security and Services as detailed in the letter dated 21st July 2014 marked *JK8*. I am satisfied from the *Report and Declaration* dated 26th February 2018; and, the *Certificate* dated 8th July 2016 all issued by *Buckner Kenya Adoption Services*, a registered society under the Act, that the minor is *free* for adoption.
5. I observed the general demeanour of the child in court. He struck me as a healthy and happy toddler; and, who has jelled well with the proposed adoptive parents. This was also confirmed by the answers I received on oath from the *guardian ad litem*.
6. I also interviewed both applicants *on oath*. I confirmed that they understand the *finality* and legal implications of an *adoption order*. They have lived with the minor for nearly *one year*. The applicants are Kenyan citizens by birth residing in *K.[particulars withheld]*, Murang'a County. They are both business people. It is manifest from the bank statement from *Equity Bank* and the *Single Business Permit* annexed to the originating summons that the couple is financially stable. They have been giving financial support to the adoptive minor.
7. The 1st applicant is aged 48 years; the 2nd applicant is 40. They have been married since the year 2000 under *Gikuyu* customary law. A deposition sworn on 29th June 2015; and, a certificate of marriage *[particulars withheld]* are exhibited. They intend to continue residing in the Republic of Kenya. The couple has *not* been blessed with any children.
8. Like I stated, the prospective parents have confirmed that they understand the nature of an *adoption order*; that they will treat the minor like their other child; and, that the adopted child will *inherit* their property in the same manner as a biological child.
9. Section 154 of the Children Act vests the High Court with power to make *adoption orders*. I find that it is in the best interests of the minor that he be adopted by the applicants. The applicants have demonstrated their *bona fides* to be good parents. I am satisfied they have the *financial* wherewithal; and, *emotional capacity* to raise the adopted child.

10. Upon the grant of the adoption order, the applicants shall assume all parental rights and duties of the biological parents. They shall treat the adopted child as their *own*. The adoption order is *final* and shall be binding during the lifetime of the child; and, the adopted child shall have the right to *inherit* the property of the applicants. The applicants cannot give up the child owing to unforeseen behavior or other changes in her character.

11. In the end, I am satisfied that the legal requirements for a *local adoption* have been met. I therefore grant the following orders-

- a. That the applicants be and are hereby allowed to adopt *Baby G.M alias W*;
- b. That the name of the child shall now be *M.M.K.*;
- c. That the effective *date of birth* shall be recorded as 10th June 2014;
- d. That the child is presumed to be a *Kenyan Citizen*;
- e. That the Registrar General is directed to enter this adoption order in the Adoption Register; and,
- f. That the present guardian *ad litem* is hereby discharged. Instead, I appoint *R.W.K.* and *D.K.M.* (both close relatives of the applicants) to be the minor's *legal guardians* in the event that the applicants are incapacitated or unable to exercise their parental obligations.
- g. That the proceedings and judgment in this cause shall be *sealed*; and, shall *not* be accessible to any person without prior orders of the court.

It is so ordered.

DATED, SIGNED and DELIVERED at MURANG'A this 22nd day of May 2018

KANYI KIMONDO

JUDGE

Judgment read in chambers in the presence of-

Ms. Kimenyi for the applicants instructed by Kimenyi & Company Advocates.

Ms. Dorcas, Court Clerk.