



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT MACHAKOS

ADOPTION CAUSE NO 25 OF 2016

AND

IN THE MATTER OF THE CHILDREN'S ACT

AND

IN THE MATTER OF BABY J I *alias* BABY M M M

IN THE MATTER OF AN APPLICATION FOR AN ADOPTION ORDER BY

S M M)

J M M).....APPLICANTS

RULING OF THE COURT

1. By an Originating Summons dated 15th November, 2016 filed in court on 30th November, 2016 the Applicants herein **S M M** and **J M M** sought for an order to adopt baby **J I** whom they sought to rename him as **M M M**. The Applicants 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 **F K K** who agreed to be appointed as Guardian Ad Litem of the child sought to be adopted.

3. The Applicants herein are Kenyan adult citizen. They are residents in Machakos County in the Republic of Kenya and in their Chamber Summons they had sought for the following prayers:-

*i. That **F K K** in the said Republic be appointed Guardian ad litem in this case.*

*ii. THAT the Applicants **S M M** and **J M M** be authorized to adopt the child currently indentified and known as **BABY J I**.*

*iii. THAT the child be renamed **M M M**.*

*iv. THAT **A K K** be appointed the legal guardian of the child.*

v. THAT the Director of Children's Department do investigate the case and file a report.

vi. AND IT IS DIRECTED that the Registrar General shall make in the Children's register an entry recording the adoption in accordance with the particulars set out in the schedule attached hereto.

4. Prayer (i) of the said Originating Summons was granted during the hearing held on 9/5/2017, after an examination by the Court of the guardian *ad litem*, as was prayer (ii). The Court during further hearings held on 1/11/2017 and 1/3/2018 admitted as evidence a declaration report by KKPI Adoption Society Report dated 7th February, 2017 and filed in court on 8th March, 2017. The guardian *ad litem*'s report dated 3rd June, 2017 filed in court on 14th June, 2017 and the report by Emily Kimanzi the Machakos Sub- County Children's Officer dated 26th July, 2017 and filed in court in August, 2017 were also adopted by the Court as evidence during the hearings.

5. **Baby J I** is a male child, estimated to have been born on 27th October, 2011. He was found abandoned at a building foundation. He was rescued by one Shem Momanyi who later informed Agnes Muthoni Kanani. The matter was reported to the area chief who later referred it to Soweto Police Station vide O.B. No. [particulars withheld]. He was committed to the care of the home on 8th December, 201; at Nairobi

Children's Court vide Protection and Care Case Number [particulars withheld]. The minor stayed in the home until 14th December, 2014 when he was placed under the care and control of the Applicants Mr. and Mrs S M M (the applicants herein) and has been enjoying the parental love, care and food nurturing accorded to him by the Applicants and has bonded well with them.

6. The Applicants approached the Adoption Society with an intention of adopting a baby boy and they were placed with **baby J I** on 14th December, 2014.

7. The reports filed in Court confirm that the Applicants are mature and responsible, and have bonded well with **Baby J I** 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 at least 25 years of age and under the age of 65 years, and who wishes to adopt a male child. They have therefore met the requirement set under Section 158 (1), (2) and (3) of the Children Act.

8. 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 J I**. Lastly, I observed the Applicants with **Baby J I** 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 J I** 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 he 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.

I accordingly allow the application for adoption and order as follows:

- i. **THAT** the Applicants **S M M** and **J M M** are hereby authorized to adopt the child currently indentified and known as **BABY J I**.
- ii. **THAT** the child be renamed **M M M**.
- iii. **THAT A K K** shall be the legal guardian of the child due for adoption should such eventuality arises.
- iv. **THAT** as the child was born in Kenya, he is hereby declared a Kenyan citizen by birth.
- v. **THAT** the Registrar General is directed to enter this adoption order in the Children's Adoption register.
- vi. **THAT** the Guardian Ad litem is hereby discharged.

It is so ordered.

Dated, signed and delivered at Machakos this 18th day of May 2018.

D.K. KEMEI

JUDGE

In the presence of:-

Stephen Muteti Munguti - for the Applicants

Steve- Court Assistant