



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA

AT MURANG'A

ADOPTION CAUSE NO. 4 OF 2014

IN THE MATTER OF THE CHILDREN ACT

AND

IN THE MATTER OF AN APPLICATION FOR ADOPTION

BY J W W

AND

IN THE MATTER OF THE ADOPTION OF BABY C D (MINOR)

JUDGMENT

1. This is an application for a *local adoption*. The applicant, *J W W* is a Kenyan citizen aged 46. I will refer to her as the applicant or proposed adoptive mother.
2. The *ex parte* originating summons is dated 15th December 2014. It is brought under the Children Act and the Regulations thereunder (hereafter *the Act and Regulations*). The summons is supported by the *statement* and *verifying affidavit* of the applicant together with a bundle of materials filed on even date. There is also an *original* report filed by the *adoption agency* on 3rd May 2018; and, a further report by the *Guardian ad Litem* filed on 4th May 2018.
3. The minor is a girl now aged *ten years* or thereabouts. At the time the application was presented, she was *four years and nine months*. Her exact date of birth is *uncertain*. It is estimated to be on or about 28th August 2008.
4. One *M A* returned to [particulars withheld] in Kisumu claiming to have delivered a baby. The baby was two months old. It was suspicious because she had cohabited with her husband for only three months. Members of the public feared that the baby was stolen. The matter was reported to Kondele Police Station under OB [particulars withheld]. *M A* was arrested and the minor admitted into *New Life Home Trust*, Kisumu on 24th October 2008.
5. The biological parents of the minor are thus *unknown*. Another couple had come forward to claim the baby. But they later traced their lost one and dropped their claims on the minor in this case. On 11th December 2008, the magistrate's court at Winam *committed* the minor to the care of the *New Life Home Trust*. The *committal order* is annexed.
6. I am satisfied from the materials on record that the biological 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 27th November 2017. I am satisfied from the *Report and Declaration* dated 15th August 2012; and, the *Certificate* dated 15th August 2012 all issued by *Little Angels Network*, a registered society under the Act, that the minor is *free* for adoption.
7. I interviewed and observed the general demeanour of the child in court. She is a healthy and happy girl who has jelled well with the proposed adoptive mother. This was also confirmed by the answers I received *on oath* from the *guardian ad litem*.
8. I also interviewed the applicant *on oath*. I confirmed that she understands the *finality* and legal implications of an *adoption order*. She has lived with the minor for nearly *six years*. Like I stated, she is a Kenyan citizen by birth and residing in *K. [particulars withheld]*, Murang'a County. She is a widow. She farms tea and rears a few cows. Due to her medical condition, she cannot bear her own children. The applicant is *financially stable* and has been meeting the education and living expenses of the minor. She intends to continue to reside in the Republic.

9. Like I stated, the prospective mother has confirmed that she understands the nature of an *adoption order*; that she will treat the minor like her child; and, that the adopted child will *inherit* her property in the same manner as a biological child.

10. 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 she be adopted by the applicant. The applicant has demonstrated her *bona fides* to be a good mother. I am satisfied that she has the *emotional* and *financial* capacity to raise the adopted child.

11. Upon the grant of the adoption order, the applicant shall assume all parental rights and duties of the biological mother. She shall treat the adopted child as her *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 applicant. The applicant cannot give up the child owing to unforeseen behavior or other changes in her character.

12. 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 applicant be and is hereby allowed to adopt *Baby C D*;
- b) That the name of the child shall now be *C N W* ;
- c) That the effective *date of birth* shall be recorded as 28th August 2008;
- 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;
- f) That I appoint *B W W* to be the minor's *legal guardian* in the event that the applicant is incapacitated; or, unable to exercise parental obligations; and,
- 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 19th day of June 2018

KANYI KIMONDO

JUDGE

Judgment read in chambers in the presence of-

The applicant.

No appearance by counsel for the applicant.

Ms. Dorcas, Court Clerk.