

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA

AT NAIROBI

(FAMILY DIVISION)

ADOPTION CAUSE NO. 138 OF 2017

IN THE MATTER OF AN APPLICATION FOR ADOPTION OF BABY E A A

JUDGEMENT

1. The applicants, S M L and Z K M, are Kenyan citizens. They are a married couple. They seek to adopt Baby E A A. Their Originating Summons is dated 13th September 2017.

2. The child in question was born on 11th May 2016 at the Kakamega County General Hospital to known parents. He was conceived of an incestuous relationship between two first cousins. Such a child is considered taboo in his community, so he was given up for adoption. He was handed over to the Kenya Children's Homes adoption society on 8th July 2016. The mother swore an oath on 2nd August 2016, giving up her rights over the child. The child was then admitted at the Springs of Children's Home for care and protection. The child was freed for adoption on 19th April 2017 by the Kenya Children's Homes by their certificate number 1350. The child was placed with the applicants on 1st June 2017, and has been with them since then.

3. To facilitate this adoption, the applicants have been assessed by the Kenya Children's Homes, the Director of Children Services and the guardian *ad litem*, M M M K. The three have compiled and filed their reports in court. That of the Director of Children Services is dated 6th February 2018, while that of the guardian *ad litem* is dated 23rd March 2018. The report by the Kenya Children's Homes is dated 25th September 2017. All these reports are favourable and recommend the proposed adoption. The applicants have demonstrated that they have the financial and emotional capability and capacity to take care of the child. The child himself appears to have bonded well with them and he considers them to be his parents.

4. In the opinion of this court it would be in the best interests of the child that he is adopted by the applicants. The applicants will be able to provide a home and a family for the child to grow up in. Consequently, the applicants shall assume all parental rights and duties of the biological parents in respect of the adopted child; they shall treat the adopted child as if he was born to them. The applicants have 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 inherit their property. The applicants cannot give up the child owing to any subsequent unforeseen behaviour or other changes in the child.

5. I am satisfied that all the legal requirements for a local adoption have been met, and I therefore make the following orders:-

(a) That the applicants, S M L and Z K M, are hereby allowed to adopt the child Baby E A A, who shall hereafter be known as N J L;

(b) That the said child is Kenyan by birth and was born on 11th May 2016;

(c) That F L is hereby appointed legal guardian of the child in the event something untoward happens to the applicants;

(d) That the Registrar-General is hereby directed to enter this adoption order in the adoption register; and

(e) That the guardian *ad litem* is hereby discharged.

DATED, SIGNED and DELIVERED at NAIROBI this 14TH DAY OF JUNE, 2018.

W. MUSYOKA

JUDGE