



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA

AT NAKURU

ADOPTION CAUSE NUMBER 29 OF 2017

IN THE MATTER OF BABY J O a.k.a. E K...MINOR

AND

F K L.....1ST APPLICANT

J A M.....2ND APPLICANT

JUDGMENT

The Application is brought by way of Originating Summons and is dated the 12th June, 2017. The Applicants **F K L** and **J A M** through their advocate Karen Wanderi & Company Advocates seek the following orders:

1. Spent
2. Spent
3. Spent
4. Spent
5. **THAT** P K. L of Post Office box Number [Particulars withheld] within the Republic of Kenya be appointed Legal guardian of the infant.
6. **THAT** the Applicants be authorized to adopt the minor herein J O a.k.a. E K.
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 General do make in the Adopted Children Register an entry recording the adoption in accordance with the particulars set out in the Schedule to this order.
9. **THAT** the Registrar of Births and Deaths be and is hereby directed to issue the infant with certificate of birth in the name E K.

The Applicants **F K L** and **J A M** are husband and wife. **F K L** is a security guard at Waterbuck Hotel, Nakuru while the wife **J A M** is a farmer. The couple resides in Salgaa. The Applicants solemnized their marriage on 13th April, 2016 at the Registrar's office in Nakuru County under the Marriage Act, 2014 and were issued with a certificate of marriage Serial number [Particulars withheld]. The Applicants have one biological child known by the name M C who has attained the age of majority. The 2nd Applicant is unable to conceive a second child due to health complications in her reproductive system hence the desire to adopt Baby **J O a.k.a. E K**. M C welcomes the move by her parents to adopt baby **J O a.k.a. E K** since she desires to have a brother.

Baby **J O a.k.a. E K** was presumably born on 20th December, 2013. He was found abandoned at Mrs. Luke Lukelesia Owanga Wasike's home of St. Kizito Parish area Lusumu on 27th July, 2015. The matter was reported at Navakholo Police Station and was recorded vide Occurrence Book Number [Particulars withheld]. Vide a letter dated 21st August, 2015 the Kakamega Sub-County Children's Office sought placement of the **J O a.k.a. E K** at Divine Providence Children's Home Kakamega as a child in need of care and protection. Baby **J O a.k.a. E K** was officially committed to Divine Providence Children's Home vide the Kakamega Children's Court Protection and Care case number 399 of 2015. The medical records available indicate that baby **J O a.k.a. E K** is in good health and his HIV status is negative. Baby **J O a.k.a. E K** was not immunized since by the time he was admitted at the home he was passed the immunization age.

On 9th June, 2014 the Applicants approached the Kenya Children's Home with an intention of being ratified for placement with a male child with a view to eventually adopting. They followed the due process and were approved for placement with a child by the agency's case committee on its sitting of 18th January, 2017. On 30th January, 2017 they were placed with the minor.

On the 18th April, 2018, the Court ordered the County Children's Coordinator in the Ministry of Labour, Social Protection to investigate the Applicants' fitness to adopt baby **J O a.k.a. E K** One **P K L** of Post Office Box Number [Particular withheld] was appointed as Guardian *ad litem* of **J O a.k.a. E K** The consent of the biological parents was dispensed with and the minor was presumed a Kenyan citizen.

By a letter dated 29th February, 2016, the Kakamega Police Station asserted that the parents or relatives of the child cannot be traced and none appeared to claim the child.

The Kenya Children's Homes Adoption Society upon home visit at the Applicants Residence in Nakuru on 14th November, 2016 filed a favourable report dated 10th July, 2017 on the suitability of the Applicants to adopt baby **J O a.k.a. E K** Baby **J O a.k.a. E K** was declared free for adoption by the agency's case committee sitting of 5th October, 2016 where a freeing certificate serial number [Particulars withheld] was issued. was declared free for adoption by the agency's case committee sitting of 5th October, 2016 where a freeing certificate serial number [Particulars withheld] was issued.

Viola Yego, a personnel from the children's services visited and interrogated the Applicants on their suitability to adopt Baby **J O a.k.a. E K**. Mwambi Mongare, the County Children's Coordinator, Nakuru filed a report in Court dated 3rd July, 2018.

This Court has had occasion to consider the application and the relevant reports filed. I make a finding that as per the report of the County Children Coordinator Nakuru, an appropriate legal guardian needs to be appointed from a person who is not a blood relative of the Applicants.

The Court directs that a suitable application for substitution of a legal guardian be made.

Dated and Signed at Nakuru this 31st day of July, 2018.

A. K. NDUNG'U

JUDGE