



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT MOMBASA

ADOPTION CAUSE NO. 9 OF 2018

AND

IN THE MATTER OF THE CHILDREN'S ACT (NO. 8 OF 2001)

AND

IN THE MATTER OF

AND

AN APPLICATION FOR ORDERS OF ADOPTION OF M I alias O O K (MINOR)

BY

T O K K and L M K N M

JUDGEMENT

1. **T O K K and L M K N M** the Applicants herein are a married couple. Their marriage was solemnized in Nairobi, Kenya on 16.12.1995. The Applicants reside in Malindi, Kenya. The two have one biological child of their called S K born on 2. 12 2002 and have had in their home since 2005, N K, a 20 year old niece to the 1st applicant. The Applicants now seek to adopt a male child, **O O K**. They have moved the court by their Originating Summons dated 12.6.2018.

2. The child **O O K** was born on 11.08.2000 to one S j K. The child's mother was the first cousin to the female Applicant **L M K N M**. S died on the 17th august 200, some 6 days after the child was born. The father of the child was unknown at birth and has remained unknown to date. The Applicants have lived with, taken care of and supported the child since 20.12.2000 when he was nine days old. From the time the child came into their custody and care, the have stayed with the child in their home in Malindi and child knows no other home or parents.

3. On 13. 06 2018, this Court did appoint F K K as the Guardian *ad litem* in this matter. That guardian *ad litem* had prior to coming to court had prepared and files his report dated 4.6.2018 and a consent in respect of the minor.

4. To facilitate this adoption, the applicants have been assessed by one Aveline W Waruku, the programme Officer- Adoption & Child Placement, Change Trust Agency Of Kenya and Naomi Mwaka Kazungu, the Sub-County Childrens Officer, Malindi on behalf of the Director of Children Services. Change Trust Agency Of Kenya, a registered adoption society which arranged the adoption, declared the child free for adoption on 5.6.2018 *vide* its certificate serial No. XXX. The society's report dated 5.6.2018 was filed in Court on 13.6.2018. The report of the Guardian *ad litem* was also filed on 13.6.2018. Aveline W. Waruku, the Malindi Sub-County Children's Officer for the Director of Children Services filed his report dated 20.7 2018 on 23.7.2018. All these reports are favourable and recommend the proposed adoption.

5. The Applicants for their part have demonstrated that they have the financial and emotional will, capability and capacity to take care of the child. The Court observed and interviewed the child in chambers in the presence of the applicants , the guardian *ad litem* and one Mr M N, the managing Trustee, Change Trust Agency Of Kenya, who attended court to produce their report and is satisfied that he has bonded extremely well with the applicants is happy and focused on personal and carrier development. He aspires to be a music producer.

6. After a careful assessment of the reports filed herein and from the observation of the interaction of the Applicants and the child during the hearing, this court has formed the opinion that it would be in the best interest of the child to be adopted by the Applicants. The Applicants will be able to provide a home and a family for the child to grow up in and thereafter become a useful member of the family and the society at large. The Court further notes that this is a kinship adoption as the female Applicant is a biological aunt of the child.

7. The Applicants have been made aware of the consequences of an adoption order. They shall assume all parental rights and duties of biological parents in respect of the child. They shall treat the adopted child as if he was born to them. That the adoption order is final and binding during the lifetime of the child and that the child shall have the right to inherit their property alongside their biological child **S K**. The Applicants cannot give up the child owing to any subsequent unforeseen behaviour or other changes in the child.

8. The Court is further satisfied that all the legal requirements for a kinship adoption have been met and makes the following Orders:

- a) The Applicants, **T O K and L M K N M** are hereby allowed to adopt **M I** who shall henceforth be known as **O O**.
- b) I direct the Registrar General to enter this order in the Adoption Register.
- c) **F K K A** the guardian *ad litem* is hereby discharged.

It is so ordered.

DATED, SIGNED and DELIVERED at MOMBASA this 27st day of July, 2018.

P J O OTIENO

JUDGE

In the presence of: -

Mr. O K the 1st Applicant in person

Bancy - Court Assistant