



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI

FAMILY DIVISION

ADOPTION CAUSE NO. 293 of 2015

IN THE MATTER OF CHILDREN'S ACT 2001

and

IN THE MATTER OF BABY M S M Alias D K G

O G K

J N G..... Applicants

J U D G M E N T

1. The Application now before the Court was brought by Originating Summons filed on 15th December 2015. The Applicants are O G K AND J N G. The Applicants are applying to the Court to authorise them to adopt the Child subject of these proceedings, Baby M S M

2. The First Applicant is said to be a Salesman at [Particulars withheld] and the Second Applicant is self employed. They are of Kenyan Nationality and African race. They were born on 24th March 1980 in Maralal (First Applicant) and 21st September 1983 in Thika. they were married under Kikuyu Customary law on 10th April 2011 and have filed an Affidavit of Marriage marked A. The marriage is monogamous. They have also filed their respective Certificates of Good Conduct from Kenya Police.

3. The Child was an abandoned baby. He is presumed to have been born on 4th March 2013, the day of the Elections. He was rescued near the new Apostolic Church in Mwingi Town. The matter was reported to the District Children's Officer who sent the Child to the Hospital for examination. He was found to be underweight. The matter was reported to the Police who recorded it under Occurrence Book No [Particulars withheld]. The Child was committed to Hope House Babies Home on 18th April 2013 by an order for committal under **Care and Protection Case No 8 of 2013**. He was removed to the same Home in Nairobi the next day. On 15th July 2014, the Officer in Charge of Mwingi Police Station confirmed that they were unable to trace the Child's family and that no one had come forward to claim him. As a result the child was not claimed for a period of 6 months confirming that he was abandoned and a Child in need. The Buckner Kenya Adoption Society Services declared the child free for Adoption on 26th September 2014 pursuant to Certificate No [Particulars withheld], the original of which is on the file. He was placed with the Applicants on 29th September 2014.

4. The Applicants are each from close families and get on with each other's families. The families support them in the adoption process. They have no children of their own. The Applicants both have a steady income and are therefore financially secure. They underwent a medical examination and have been adjudged to be of good health and mentally stable

5. The Child has bonded with the Applicants who have provided him with parental love and care. The Applicants would like to appoint Pastor A M and M W M to be guardians of the Child if for any reason they are unable to take care of him. The Applicants have met the basic needs of the Child during the placement. According to the Buckner Society Report they are humble and social people who are prepared to give a child a permanent home.

6. On 11th March 2015, this Court, differently constituted appointed B N W to be the Child's Guardian ad Litem for the purposes of these proceedings. He was directed to file a Report as was the Director of Children's Services. The Guardian ad litem reports that the family is economically stable and therefore the child is assured of a good future. The family attends church and that provides for a good moral foundation. The Child attends private school. The Applicants are from a close family and he has been brought up as a full member of the family. He recommends that it is in the best interest of the Child for the court to allow the Applicants to adopt the child who will be known as D K G.

7. The Director of Children's Services filed his report on 4th May 2017. The Report confirms the details of the Applicants and the child. They opted for adoption because the Second Applicant was unable to have children of her own. The Report from Children's Services records that they have adequate accommodation with utilities. It is said the Applicants have bonded well with the child and the environment is

suitable. The Report informs the Court that the Child is available for adoption. In the circumstances, he is in need of an alternative family. The proposed adoption provides him with that alternative. The Prospective Adopters have govned well with him and he with them. It is said adoption is in his best interests . The Director therefore recommends that the Applicants be allowed to adopt the Child. On adoption he will be renamed D K G. The Report states that in the event the Applicants cannot care for the Child they would like to appoint D K G as the legal guardian. He has consented to so act by Affidavit dated 18th November 2015.

Having considered the evidence and recommendations before the Court and the best interests of the Child, the court makes the following orders:

- (i) **THAT** the Applicants O G K AND J N G be and are hereby authorized to adopt **BABY M S M**
- (ii) **THAT** the Registrar General does not make the appropriate entries on the register for Adoption.
- (iii) **THAT** upon the issuance of the Adoption Order the child known as D K G
- (iv) **THAT** **D K N be appointed as legal guardians of the Child in the event that the Applicants are unable to care for him**
- (v) **THAT** the child be presumed a Kenyan Citizen by birth;
- (vi) **THAT** the Director of Immigration be and is hereby authorised to issue the child with a Kenyan Passport.

Order accordingly,

FARAH S. M. AMIN

JUDGE

Dated and Signed at VOI this the 13th day of June 2018

J U D G E

DELIVERED DATED AND SIGNED this the 30th day of August 2018

In The Presence of :

Court Clerk:

Counsel for Applicant:

FARAH S. M. AMIN

JUDGE