



**REPUBLIC OF KENYA**

**IN THE HIGH COURT OF KENYA AT KIAMBU**

**ADOPTION CASE NO 12 OF 2017**

**IN THE MATTER OF ADOPTION OF BABY P. C.**

**BY**

**S. W. K.....APPLICANT**

**R U L I N G**

1. The Applicant herein, **S.W.K.** is a Kenyan female adult aged about 57 years and is a teacher by profession. She resides at Thika and subscribes to the Christian faith and is a member of St. M. M. Catholic Church Thika. She formalized her marriage to **L. K. A** fifteen years ago but the couple is currently estranged. **L. K. A** got married to another woman. They had one child, a son **K. K. A** who died in a road accident at the age of 30 years in 2014.
2. The Applicant wishes to adopt the child known as **P. C.**, a female. Her estranged spouse **L.K.A.** has no objection to the application.
3. According to the material on record, the child was found abandoned in a field in Mau Sumit, Nakuru on 6<sup>th</sup> November 2015, at the estimated age of 21 months, and the matter reported to police vide OB-/-/15. The police referred the child to the Africa Gospel Church Baby Centre where she was formally admitted and later committed by the Children's Court in **Nakuru Protection and Care Case No.427 of 2015**. The child's assumed date of birth is 6<sup>th</sup> February, 2014.
4. The biological parents of the child were never traced and no person has come forward to claim her. The child was declared free for adoption vide **certificate No[particulars withheld]** by **Buckner Kenya Adoption Services**, dated 8<sup>th</sup> July 2016.
5. On 24<sup>th</sup> August 2016, the child was placed in the foster care of the Applicant. The child has been in her custody since then.
6. The social enquiry reports filed by the adoption society and reports by the guardian ad litem and the Department of Children Services in Thika confirm that the application is both emotionally and financially stable. That she is capable of providing for the upkeep and education of the minor.
7. For her part, the Children Officer recommends the adoption stating that the child has bonded well with the Applicant and stands to benefit from a parental relationship with the Applicant, while the Applicant would satisfy her wish to be a parent once more. However, the children officer also raised the issue of the relationship between the Applicant and her estranged spouse, which this court had also noted during proceedings held on 29/5/18. The court then adjourned the hearing of the originating summons and directed that the adoption agency further counsels with the Applicant on the matter.
8. When the hearing resumed on 24/7/18 the court was told that the Applicant had resolved to file a divorce petition, a copy of which was tendered, and to amend the proposed name of the minor to remove references to K...U. the husband's name to her maiden name K...e. The Applicant has proposed her sister Hannah Wanjiku as a guardian to the minor.
9. The minor has always attended court in the company of the adoptive mother. The two appear to relate well and the child appears happy and confident. The court is obligated in considering the adoption application to uphold the best interests of the child (see Article 53(2) of the Constitution and **Section 4(3)** of the Children Act).
8. In my considered view, the Applicant has satisfied the requirement for a local adoption under the Children Act, proving her capacity to care for the minor. The Applicant is financially secure and lives in her own house. She has good social support. Her reason for seeking adoption is to share her love for children with the minor.
9. The court is persuaded that cohabitation has ceased between the Applicant and her estranged husband who in any event has not played role in these proceedings save by a no-objection letter. The Applicant is stable and capable of providing for and caring for the minor child. It is in her best interest that the adoption be allowed in order to give her a stable and secure future. I grant the originating summons in terms

of prayers 1– 7.

**DELIVERED, DATED AND SIGNED AT KIAMBU THIS 28<sup>TH</sup> DAY OF SEPTEMBER, 2018**

**In the Presence of:**

**For the Applicant – Miss Kimenyi**

**Applicant – Present**

**For the Adoption Society – No appearance**

**Court Clerk – Kevin**

**C. MEOLI**

**JUDGE**