



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI

ADOPTION CAUSE NO. 205 OF 2015

IN THE MATTER OF THE CHILDREN'S ACT 2001

AND

IN THE MATTER OF AN APPLICATION FOR ADOPTION BY EWM

AND

IN THE MATTER OF ADOPTION OF BABY I.N. (MINOR)

JUDGMENT

1. THIS is an application for local adoption. The Applicant EWM is an adult female Kenyan citizen who claims to have never married or bore any child or children of her own. I will refer to her as the Applicant or prospective adoptive parent.
2. The application was brought by way of Originating Summons dated 3rd September 2015. It is brought under the Children Act Sections 4 and 154 and Article 14 of the Constitution. The summons is supported by the *statement* and *verifying affidavit* of the Applicant together with a bundle of materials filed on even date. There is also an *original* report filed by the *Director of Children Services* on 28th May 2018; and one by the *Guardian ad Litem* filed on 9th July 2018.
3. The minor is a girl now aged six years or thereabouts. At the time of filing this application she was about three years old. Her date of birth is presumed to be 5th August 2012.
4. The above mentioned baby girl was found abandoned in Soyama within Nanyuki township on 5th April 2013 when aged about 8 months old. She was found by a Good Samaritan who reported the matter at Nanyuki Police Station vide O. B No. [particulars withheld].
5. The biological details and whereabouts of the mother and/or parents are unknown. The child was referred to Child Welfare Society of Kenya, Nanyuki Children's Home for temporary care and protection as investigations to trace the parents went on. The child has remained unclaimed since the date of her rescue on 5th April 2013. She was later committed to the children's home vide care and protection case number 115 of 2013 at the Children's Court Nanyuki on 23rd October 2013.
6. The Children's Welfare Society of Kenya declared the child free for adoption and issued a declaration Certificate S/No. [Particulars withheld] on 10th August 2014. The minor I. N. was placed with the Applicant on 20th October 2014 where she has remained under her care and control to date. The court on 26th April 2018 appointed RNK as Guardian ad item to the baby.
7. A visit conducted by various stake holders to the home where the minor resides with the Applicant revealed that the baby seemed to have settled well with the family and is happy and quite comfortable interacting with the Applicant with whom they have fully bonded.
8. During the hearing and upon interrogation of the applicant on oath, it was evident that she understands the finality and legal implications of an adoption order. She has lived with the minor for nearly four years. She is a Kenyan citizen by birth and residing in Kimalat within Kajiado County. She was previously employed in a textile mercantile industry but has since quit and is now self employed as a farmer within the said county where she resides. Her monthly income is estimated to be about Kshs 5,000.
9. The prospective parent fully appreciates the role of parental responsibility and that the baby will be entitled to all rights including inheritance just like any biological child.
10. Section 154 of the Children Act vests the High Court with power to make adoption orders. In making decisions of this nature affecting the affairs of a child, the primary consideration is the best interests of a child as underscored by Article 53(2) of the Constitution. I find that it is in the best interests of the minor that she be adopted by the Applicant. The Applicant has demonstrated her financial, mental, medical,

moral, and physical suitability and ability to exercise parental responsibility in the best interests of the baby.

11. Upon the grant of the adoption order, the Applicant shall assume all parental rights and duties of the biological parents. She shall treat the adopted child as her own. The adoption order is final and shall be binding during the lifetime of the child; and, the adopted child shall have the right to inherit the property of the applicant. The Applicant cannot give up the child owing to unforeseen behavior or other changes in her character.

12. Accordingly, I am satisfied that the legal requirements for a local adoption have been met and therefore grant the application with orders as follows-

- a) That the Applicant be and is hereby allowed to adopt Baby I. N.;**
- b) That the name of the child shall henceforth be GP.**
- c) That the effective date of birth shall be 5th August 2012 and place of birth Soyama Nanyuki Laikipia County Kenya;**
- d) That the child is presumed to be a Kenyan Citizen;**
- e) That the Registrar General is directed to enter this adoption order in the Adoption Register;**
- f) That TMW be and is hereby appointed as the minor's legal guardian in the event that the Applicant is incapacitated; or, unable to exercise parental obligations; and,**
- g) That the guardian Ad litem be and is hereby discharged.**

DATED, SIGNED AND DELIVERED AT NAIROBI THIS 28TH DAY OF SEPTEMBER, 2018

JOHN ONYIEGO

JUDGE