



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA

AT NAIROBI

ADOPTION CAUSE NO. 42 OF 2017

IN THE MATTER OF THE CHILDREN ACT, 2001

AND

IN THE MATTER OF THE ADOPTION OF

BABY A.M.....MINOR

BY

L S I E.....APPLICANT

JUDGMENT

The Applicant, **L S I E** sought by her Originating Summons and Affidavit in support, orders allowing her to adopt Baby A.M (hereinafter the child) whose name she wants changed to L I C. The Applicant is a single lady aged 46. She is employed as a staff counsellor with [particulars withheld]. She has a 7 year old daughter from her previous marriage with her late husband and wishes to adopt the child to give her daughter a sister and to help a needy child.

The child in this matter is presumed to have been born on 1st March, 2016. She was found abandoned after birth along the railway line within Kiganjo location in Nyeri Central on 1st March, 2016 at 7.00 am. This matter was reported at Kiganjo Police Station and recorded vide O.B number [particulars withheld]. The child was then placed at New Life Home Trust, Nyeri and the matter also reported to Children Department Nyeri Central Office. The child was formally committed to New Life Home Trust, Nyeri on 10th March, 2016 for care and protection in accordance with **Section 119** of the **Children Act 2001** vide **Children's Court at Nyeri, Protection and Care Case Number 27 of 2016**.

The child was then placed in the custody of the Applicant for mandatory bonding prior to adoption on 2nd December, 2016. She has since then been in her continuous custody and care. According to correspondence from relevant police authorities at Kiganjo Police Station Nakuru, no one has come forward to claim the child. Change Trust Adoption Society issued a certificate declaring the child free for adoption pursuant to **Section 156(1)** of the **Children Act**. The said freeing certificate is serial no. [particulars withheld] and the same is dated 19th October, 2017.

In an application filed on 10th April, 2017 the Applicant sought orders that P M be appointed as the child's guardian *ad litem*, and that the Director of Children's Services be ordered to investigate the suitability of the Applicant to adopt the child and submit a report. On 27th April, 2017 this Court issued an order appointing P M as the child's guardian *ad litem*, and further directing that she and the Director of Children's Services file their respective reports in Court.

Before this matter came up for hearing, Buckner Kenya Adoption Services on 26th April, 2017 filed a report which favoured the proposed adoption of the child by the Applicants. On 18th May, 2018, the guardian *ad litem* filed a report which favoured the proposed adoption of the child by the Applicant. Another report in respect of the proposed adoption of the child by the Applicants was prepared by the Director of Children's Services and filed on 20th February, 2018. This report was similarly in favor of the proposed adoption. Both reports filed in respect of this proposed adoption have recommended that this Court allows the Applicant to adopt the child.

This is a local adoption. It is evident that the Applicant has fulfilled all the legal requirements relative to the adoption of the child. The consents of the biological parents of the child are dispensed with in accordance to **Section 159(1) (a) of the Children Act, 2001** since the child was abandoned at birth. This Court is satisfied that the Applicant is qualified and able to take care of the child. The home visit by the guardian *ad litem* confirms that the Applicant is indeed capable of providing for the child. The Report from the Department of the Children's

Services established that the Applicant has the financial and emotional capability to provide for the upkeep and education of the child. She has no criminal records and is of good health. The child has bonded well with the Applicant according to the Guardian *ad litem*'s report. The child considers the Applicant her mother.

After careful examination of the documents presented, it is the opinion of the court that this Adoption would be in the best interest of the child. Hence, this Court allows the Applicant's application. The Applicant, L S I E, is hereby allowed to adopt Baby A.M. Henceforth, the child shall be known as L I C. Her date of birth shall be 1st March, 2016. Her place of birth shall be Nyeri County. She is presumed to be a citizen of Kenya by birth. D E is hereby appointed as the legal guardian of the child should any eventuality arise. This Court directs the Registrar General to duly enter this order in the Adoption Children Register. The guardian *ad litem* is hereby discharged. It is so ordered.

DATED, SIGNED AND DELIVERED THIS 24TH DAY OF SEPTEMBER 2018.

M. W. MUIGAI

JUDGE- FAMILY DIVISION HIGH COURT

IN THE PRESENCE OF;

MR. MWENDA FOR THE APPLICANT

PATRICK KINUTHIA COURT CLERK.