



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI

ADOPTION CAUSE NO. 250 OF 2012

IN THE MATTER OF THE CHILDREN ACT, 2001

AND

IN THE MATTER OF THE ADOPTION OF

BABY S.N.MINOR

BY

P K G1ST APPLICANT

AND

M W K.....2ND APPLICANT

JUDGMENT

The Applicants, P K G and M W K sought by their Originating Summons and Affidavit in support, orders allowing them to adopt Baby S N (hereinafter the child) whose name they want changed to S N K. The Applicants are husband and wife. They are 67 and 54 years old respectively. They have been married since 1980 but formalized their marriage on 6th June, 2009 as per the marriage certificate filed together with the application. Both applicants are business people. Their marriage has not been blessed with children thus they wish to adopt the child. The 1st applicant however has four adult children from a previous marriage.

The child in this matter was born in Thika District Hospital on 8th May, 2006. Her biological mother abandoned her at the hospital on 9th May, 2006. This matter was reported at Thika Police Station and recorded vide O.B number 28/15/5/06. The child was discharged to Mama Ngina Children's Home for care and protection on 18th May 2006. The child was formally committed to Mama Ngina Children's Home on 29th January, 2010 for care and protection in accordance with **Section 119** of the **Children Act 2001** vide the **Children's Court in Nairobi, Protection and Care case number 78/2010**.

The child was then placed in the custody of the Applicants for mandatory bonding prior to adoption on 13th August, 2007. She has since then been in their continuous custody and care. According to correspondence from Thika Police Station, no one has come forward to claim the child. Child Welfare Society of Kenya 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. 0036 and the same is dated 25th March, 2010.

In applications filed on 12th November, 2012 and 12th June, 2015 respectively, the Applicants sought orders that the Director of Children's Services be ordered to investigate the suitability of the Applicants to adopt the child and submit a report, and that R M N be appointed as the child's guardian *ad litem*. On 9th September, 2016 and 22nd May 2014, this Court issued orders appointing R M N 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.

On 7th June, 2017, the guardian *ad litem* filed a report which favoured the proposed adoption of the child by the Applicants. 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 18th October, 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 Applicants to adopt the child. Child Welfare Society the Adoption Agency filed a report on 29th March 2018 and Certificate to free child for adoption filed on 25th March 2010.

This is a local adoption. It is evident that the Applicants have 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 Applicants are qualified and able to take care of the child. The home visit by the guardian *ad litem* confirms that the Applicants are indeed capable of providing for the child. The Report from the Department of the Children's Services established that the Applicants have the financial and emotional capability to provide for the upkeep and education of the child. They both have no criminal records and are of good health. The child has bonded well with the Applicants according to the Guardian *ad litem*'s report. The child considers the Applicants her parents.

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 Applicants' application. The Applicants, P K G and M W K, are hereby allowed to adopt Baby S N. Henceforth, the child shall be known as S N K. Her date of birth shall be 8th May, 2006. Her place of birth shall be Kiambu County. She is presumed to be a citizen of Kenya by birth. J G G and R W K are 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. MWANGI FOR THE APPLICANTS