



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA

AT NAIROBI

ADOPTION CAUSE NO. 93 OF 2017

IN THE MATTER OF THE CHILDREN ACT, 2001

AND

IN THE MATTER OF THE ADOPTION OF

BABY D. Alias V.K.....MINOR

BY

J T G.....1ST APPLICANT

AND

E W N.....2ND APPLICANT

JUDGMENT

The Applicants, J T G and E W N sought by their Originating Summons and Affidavit in support, orders allowing them to adopt Baby D. Alias V.K. (hereinafter the child) whose name they want changed to S M T. The Applicants are husband and wife. They are 54 and 42 years old respectively. They celebrated their marriage on 26th September, 2015 as per the marriage certificate attached as "JTG-10". The 1st applicant is a [particulars withheld] while the 2nd applicant is a self-employed hairdresser. They have not been blessed with children of their own thus they wish to adopt the child.

The child in this matter is presumed to have been born on 3rd April, 2015. The child was abandoned at Mbagathi District Hospital on 6th April 2015 at the new born unit by the mother having been born premature. The matter was reported at Kenyatta Police Station vis OB No. [particulars withheld] and later reported to Kasarani Children's Home Office on 4th September, 2015. Since the efforts to trace the mother and the family members were futile, the child was committed to Happy Life Children's Home for care and protection in accordance with **Section 119** of the **Children Act 2001** vide **Nairobi Protection and Care case number 2016/2015**.

The child was then placed in the custody of the Applicants for mandatory bonding prior to adoption on 7th July, 2016. She has since then been in their continuous custody and care. According to correspondence from relevant police authorities at Kenyatta Police Station, 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. 00119 and the same is dated 4th June, 2016.

In an application filed on 28th June, 2017 the Applicants sought orders that S M 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 Applicants to adopt the child and submit a report. On 9th November, 2017 this Court issued an order appointing S M 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, Change Trust Adoption Society on 28th September, 2017 filed a report which favoured the proposed adoption of the child by the Applicants. On 12th January, 2018, 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 16th 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 Applicants to adopt the child.

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. 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* and the Department of Children's Services 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, J T G and E W N, are hereby allowed to adopt Baby D. Alias V.K. Henceforth, the child shall be known as S M T. Her date of birth shall be 3rd April, 2015. Her place of birth shall be Nairobi County. She is presumed to be a citizen of Kenya by birth. F M N and L W M are hereby appointed as the legal guardians 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;

MS KIGUATHA FOR APPLICANT

PATRICK KINUTHIA COURT CLERK.