

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI

ADOPTION CAUSE NO. 25 OF 2012

IN THE MATTER OF THE CHILDREN ACT, 2001

AND

IN THE MATTER OF THE ADOPTION OF BABY J

(MINOR)

BY

M M M APPLICANT

JUDGMENT

The Applicant, M M M sought by her Originating Summons and Affidavit in support, orders allowing her to adopt Baby J. (hereinafter the 'child') whose name she wants changed to R W. The Applicant is a single lady aged 40. She is a self-employed Hairdresser. She has not been blessed with children of her own thus she wishes to adopt the child.

The child in this matter is presumed to have been born on 13th June, 2009. She was found abandoned at a playing field in Nairobi. She was rescued by the Administration Police Office based at the Chief's Camp on 14th June, 2009. This matter was reported at Jogoo Police Station and recorded vide O.B number [Particulars withheld]. The child was then placed at Thomas Barnado House for care and protection. The child was formally committed to Thomas Barnado House on 14th August, 2009 for care and protection in accordance with **Section 119** of the **Children Act 2001** vide **Children's Court at Nairobi, Protection and Care case number 338 of 2009**.

The child was then placed in the custody of the Applicant for mandatory bonding prior to adoption on 16th April, 2010. She has since then been in her continuous custody and care. According to correspondence from relevant police authorities at Jogoo Police Station, no one has come forward to claim the child. Kenya Children's Home 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. 395 and the same is dated 12th January, 2010.

In an application filed on 31st January, 2012 the Applicant sought orders that N G 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 23rd March, 2012 this Court issued an order appointing N G 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, Kenya Children's Home Adoption Society on 13th February, 2012 filed a report which favoured the proposed adoption of the child by the Applicant. Certificate declaring the child free for Adoption No. 395 was attached. On 6th June, 2012, 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 6th April, 2012. 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 an officer from the Department of Children's Services 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 M M M, is hereby allowed to adopt Baby J. Henceforth, the child shall be known as R W. Her date of birth shall be 13th June, 2009. Her place of birth shall be Nairobi County. She is presumed to be a citizen of Kenya by birth. C S W M 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;

MS KARANJA FOR THE APPLICANT

PATRICK KINUTHIA – COURT CLERK