



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI

ADOPTION CAUSE NO. 96 OF 2017

IN THE MATTER OF THE CHILDREN ACT, 2001

AND

IN THE MATTER OF THE ADOPTION OF

BABY J W.....MINOR

BY

P M G.....1ST APPLICANT

AND

M W K.....2ND APPLICANT

JUDGMENT

The Applicants, P M G and M W K sought by their Originating Summons and Affidavit in support, orders allowing them to adopt Baby J W (hereinafter the 'child') whose name they want changed to T M W M. The Applicants are husband and wife. They are 48 and 42 years old respectively. They celebrated their marriage on 12th October, 2002 as per the marriage certificate filed herein marked A. The 1st Applicant is a self-employed Civil Engineer and the 2nd Applicant is an Administrative Office Assistant for the National Police Service Department, Ministry of Interior and Coordination of National Government. They have not been blessed with children of their own thus they wish to adopt the child.

The child in this matter was born in Kenyatta National Hospital under IP/No. [particulars withheld] on 3rd January, 2008. The hospital documents indicate that the child was abandoned at the New Born Unit where she had been admitted due to prematurity. This matter was reported at Kenyatta Police Post and recorded vide O.B number [particulars withheld]. The child remained at the hospital slightly over two months after which she was discharged to Hope House Babies Home for care and protection on 20th March 2008. The child was formally committed to Hope House Babies Home on 29th September, 2008 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 335/2008**.

The child was then placed in the custody of the Applicants for mandatory bonding prior to adoption on 11th April, 2008. She has since then been in their continuous custody and care. According to correspondence from relevant police authorities at Kenyatta Police Post, 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. 0778 and the same is dated 25th February, 2016.

In an application filed on 26th May, 2017 the Applicants sought orders that MWM 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 28th September, 2017 this Court issued an order appointing MWM 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.

Child Welfare Society of Kenya filed Report on 10th May 2018 declaration for freeing the child for Adoption Serial No. 0778. On 22nd March, 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 14th April, 2018. This report was similarly in favour 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 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, PMG and MWM, are hereby allowed to adopt Baby JW Henceforth, the child shall be known as TMWM. Her date of birth shall be 3rd January, 2008. Her place of birth shall be Nairobi County. She is presumed to be a citizen of Kenya by birth. S W K 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 BURUGU FOR APPLICANTS

PATRICK KINUTHIA COURT CLERK.