

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI

ADOPTION CAUSE NO. 115 OF 2016

IN THE MATTER OF THE CHILDREN ACT, 2001

AND

IN THE MATTER OF THE ADOPTION OF

BABY G.....MINOR

BY

MNG.....APPLICANT

JUDGMENT

The Applicant, MNG sought by her Originating Summons and Affidavit in support, orders allowing her to adopt Baby G. (hereinafter the child) whose name she wants changed to GFW. The Applicant is a single lady aged 40. She is a businesswoman. 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 9th April, 2014. She was found abandoned at Karagita estate in Naivasha. This matter was reported at Naivasha Police Station and recorded vide O.B number 36/11/10/2014. The child was then placed at Nest Children's Home, Nairobi for care and protection on 11th October 2014. The child was formally committed to Nest Children's Home on 2nd March, 2015 for care and protection in accordance with **Section 119** of the **Children Act 2001** vide **Children's Court at Naivasha, Protection and Care case number 29 of 2015**.

The child was then placed in the custody of the Applicant for mandatory bonding prior to adoption on 8th May, 2015. She has since then been in her continuous custody and care. According to correspondence from relevant police authorities at Naivasha Police Station, no one has come forward to claim the child. Kenyans to Kenyans Peace Initiative 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. 478 and the same is dated 29th April, 2015.

In an application filed on 21st September, 2016 the Applicant sought orders that RWK 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 16th March, 2017 this Court issued an order appointing RWK 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 21st 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 Applicant was prepared by the Director of Children's Services and filed on 21st November, 2017. 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 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* and 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 MNG, is hereby allowed to adopt Baby G. Henceforth, the child shall be known as GFW. Her date of birth shall be 9th April, 2014. Her place of birth shall be Naivasha County. She is presumed to be a citizen of Kenya by birth. LWG 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;

APPLICANT IN PERSON