



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA

AT NAIROBI

ADOPTION CAUSE NO. 321 OF 2013

IN THE MATTER OF THE CHILDREN ACT, 2001

AND

IN THE MATTER OF THE ADOPTION OF

BABY R.C.....MINOR

BY

P N G.....1ST APPLICANT

AND

N W K.....2ND APPLICANT

JUDGMENT

The Applicants, P N G and N W K sought by their Originating Summons and Affidavit in support, orders allowing them to adopt Baby R.C. (hereinafter the child) whose name they want changed to S N N. The Applicants are husband and wife. They are 51 and 40 years old respectively. They celebrated their marriage on 28th September 2011 as per the marriage certificate filed at page 21 of the bundle of documents. Both applicants are business people, and jointly run their shop in Ruiru. 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 4th August 2010. She was found abandoned at Kibera Soweto on 6th June 2010. This matter was reported at Kenyatta Police Post and recorded vide O.B number [Particulars Withheld]. The child was then placed at Nest Children's Home for temporary care and protection on 19th October 2011. The child was formally committed to Nest Children's Home on 19th November, 2011 for care and protection in accordance with **Section 119** of the **Children Act 2001** vide **Nairobi Protection and Care Case Number 404/2010**.

The child was then placed in the custody of the Applicants for mandatory bonding prior to adoption on 28th September, 2011. 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. Kenyan to Kenyan 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. [particulars withheld] and the same is dated 30th March 2011.

In an application filed on 20th December, 2013 the Applicants sought orders that N K 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 2nd May, 2014 this Court issued an order appointing N K 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, Kenyan to Kenyan Peace Initiative Adoption Society on 2nd May 2014 filed a report which favoured the proposed adoption of the child by the Applicants. On 29th October, 2015, 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 7th October, 2015. 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* and an officer from 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, P N G and N W K, are hereby allowed to adopt Baby R.C. Henceforth, the child shall be known as S N N. Her date of birth shall be 4th August 2010. Her place of birth shall be Nairobi County. She is presumed to be a citizen of Kenya by birth. J 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. GATUMUTA FOR THE APPLICANTS