



REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA AT NAIROBI
MILIMANI LAW COURTS
FAMILY DIVISION
ADOPTION CAUSE NO. 34 OF 2018

IN THE MATTER OF THE CHILDREN ACT, 2001

AND

IN THE MATTER OF ADOPTION OF CHILD N.1.

AND

IN THE MATTER OF AN APPLICATION FOR ADOPTION BY

P W N.....1ST APPLICANT

H W N.....2ND APPLICANT

JUDGMENT

1. The applicants are a Kenyan couple aged 41 and 38, respectively. The first applicant is a [particulars withheld] at [particulars withheld] while the second applicant is an [particulars withheld] at [particulars withheld] Ltd. They are married but have not been blessed with children. They filed this originating summons dated 20th March 2018 seeking to be allowed to adopt the female child who is presumed to have been born on 1st March 2017.

2. Child N.I. was found abandoned at a trench in Woodley, Kibera on 1st March 2017 and rescued by a good samaritan Jackson Musembi who took her to Kenyatta National Hospital. The matter was reported at Kenyatta Police Post through OB No. 19/1/3/2017. The child was committed to Imani Children's Home on 13th September 2017 for care and protection vide Protection and Care Cause No. 474 of 2017. Efforts to trace the child's biological parents were fruitless as evidenced by the final police letter dated 16th November 2017. The child was declared free for adoption under **section 156(1)** of the **Children's Act** by Buckner Kenya Adoption Services on 17th November 2017 and was placed under the care of the applicants for mandatory bonding prior to adoption. She has been under the continuous care of the applicants since 19th November 2017.

3. The court on 14th June 2018 appointed A N K as guardian *ad litem* and ordered that she files a report after carrying out a social inquiry on the applicants. A similar report was sought from the Director of Children Services. Both reports were duly filed, and each recommended that the applicants be allowed to adopt the child. The reports found that the applicants were socially, emotionally and financially stable and suitable to adopt the child. They each had no criminal record. It was also found that the child and the applicants had bonded well.

4. The court finds that it is in the best interest of the child to be adopted by the applicants. The applicants have demonstrated their ability to provide a conducive home and family environment in which the child will grow and develop. They will assume all parental rights and obligations of the biological parents of the child once adopted, and shall treat her as if she was borne to them. They have been made aware that once the adoption order is made, it shall be final and binding during the lifetime of the child. The child shall have the right to inherit their property. The applicants shall not be able to give up the child owing to any subsequent unforeseen behaviour or other changes in the child. This court dispenses with the consent of the child's biological parents as the child was found abandoned.

5. Having been satisfied that all the legal requirements for a local adoption under the **Children Act** have been met, the following orders shall issue:-

a) the applicants P W N and H W N are hereby allowed to adopt Child N.I.;

b) child N.I. shall henceforth be known as A M W;

c) the child's date of birth shall be 1st March 2017, and shall be presumed Kenyan by birth having been found abandoned at a trench in Woodley, Kibera in Kenya;

d) J K N and F W M are hereby appointed to be the child's legal guardians in the event of death or incapacity of the applicants before she is of full age and fully self-reliant;

e) the Registrar-General is directed to enter this adoption in the Adopted Children Register; and

f) the guardian *ad litem* is hereby discharged.

DATED and SIGNED at NAIROBI this 22ND day of OCTOBER 2018

A.O. MUCHELULE

JUDGE

DATED and DELIVERED at NAIROBI this 25TH day of OCTOBER 2018

A.N. ONGERI