



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI

ADOPTION CAUSE NO. 50 of 2018

IN THE MATTER OF THE CHILDREN ACT NO. 8 OF 2001

AND

IN THE MATTER OF APPLICATION FOR THE ADOPTION OF

APM (MINOR)

AN

ORIGINATING SUMMONS OF AN APPLICATION FOR AN ADOPTION ORDER

JUDGMENT

1. This is an application brought by way of Originating summons dated 16.4.2018 by the firm of ODHIAMBO ORONGA & CO. ADVOCATES seeking the following orders:

(i) THAT the Consent of the biological parents of Baby APM be and is hereby dispensed with since the infant was abandoned at birth by her biological mother.

(ii) THAT the Applicants be and are hereby authorized to adopt BABY APM and the child be called SWK henceforth.

(iii) THAT the Registrar General do make the appropriate entries in the Adopted Children's Register in respect of BABY SWK

(iv) THAT CKM of Identity Card No. [Particulars Withheld], NR of Identity No. [Particulars Withheld], and ZWK of Identity Card No.[Particulars Withheld], be and are hereby appointed as legal guardians of BABY SWK in the event of death or incapacity of the applicants.

(v) THAT the Court does issue such other orders as may be necessary in the best interest of the child.

(vi) THAT costs be in the cause

2. The Applicants DKM and ANK (hereinafter referred to as the 1st and 2nd Applicants) are husband and wife. They got married on 9.9.2005 at the office of the Registrar of marriages in Nairobi.

3. The 2nd Applicant was born on 7.01.1978. She is a business woman and currently she is self employed.

4. The 1st Applicant is also self employed. He was born on 321.7.1973 and he is currently in Real Estate Management and he has a monthly income of Ksh.220,000 to 300,000/-.

5. The 1st and 2nd Applicants have two biological Children, CNK AGED 15 YEARS and JMK aged 6 ½ years old at the time of filing this application.

6. The application is brought under section 157 and 160 and all other enabling provisions of the Children Act 2001 and Legal Notice No. 75 of 2002.

7. The Applicants are seeking adoption of BABY APM (hereafter referred to as the Child) and to call the child **SWK**.

8. The child was born on 9.11.2016 in Eldama Ravine as indicated in her Birth Certificate No. [Particulars Withheld],. She was found abandoned in a bush at [Particulars Withheld], Eldama Ravine on 13.11.2016.
9. The matter was reported in Eldama Ravine Police Station vide OB No [Particulars Withheld] and police established that the child was born in hospital as it had a cord protector from hospital but the name of the mother was not known.
10. The child was taken to the Sub county referral Hospital where it was placed in an incubator. On 16.11.2016, the child was taken to Court under the Provisions of Section 119 of the Children Act No. 8 of 2001 and on the same day, it was committed to New Life Home Trust vide P& C Case No. 25 of 2016.
11. Buckner Kenya Adoption Services declared the Child free for adoption on 14.7.2017 under certificate serial No. [Particulars Withheld].
12. The child was placed under the Applicant's care on 22/9/2017. Prior to that, the Applicants used to visit new life Home Trust with their Children and subsequently they decided to adopt the child.
13. The Director of Children's Services investigated this matter and filed a report in Court dated 6.9.2018 filed on 3.10.2018.
14. The Guardian ad litem also filed a report dated 4.10.2018 filed in Court the same date. Buckner Kenya Adoption Services also filed a report dated 14.7.2017. All the reports are favourable.
15. Upon considering the Originating Summons dated 16.4.2018 together with the documents in support of the same and also the reports filed herein, this court finds as follows:

(i) I find that all the legal requirements have been adhered to for the adoption of the child.

(ii) The Consent of the biological parents could not be obtained since the child was found abandoned on 13.11.2016. The same is dispensed with in accordance with Section 159 of the Children Act.

(iii) I find that the Applicants are suitable persons to adopt the child and this Court orders that the Applicants be and are hereby allowed to adopt the child and to name her SWK

(iv) It is further directed that CKM and ZWK be and are hereby appointed the legal guardians of the Child in the event of death or incapacity of the Applicants.

(v) The Registrar General is hereby directed to enter this order in the adoption Register.

(vi) It is further ordered that the date of birth of the child shall be 9/11/2016 as indicated on her Birth Certificate.

(vii) It is also ordered that the Child be presumed to be a Kenyan Citizen since she was found in Kenya.

Orders to issue accordingly.

DELIVERED, SIGNED AND DATED IN OPEN COURT THIS 30TH

DAY OF NOVEMBER, 2018

ASENATH ONGERI

JUDGE OF THE HIGH COURT OF KENYA, NAIROBI

IN THE PRESENCE OF:

Miss Chege holding brief for Miss Adongo for the Applicants.