



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT KERICHO

ADOPTION CAUSE NO. 9 OF 2017

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

AND

IN THE MATTER OF BABY NO *alias* NO *alias* EK (CHILD)

SKK.....1ST APPLICANT

BC.....2ND APPLICANT

JUDGMENT

1. By their application dated 18th October 2017, the applicants, SKK and BC, seek to be authorized to adopt the child currently identified and known as Baby NO *alias* NO *alias* EK.
2. The applicants are husband and wife. They were married on 15th December 2000 at [Particulars Withheld] Catholic Church. They do not have any biological children.
3. The 1st applicant, SKK, is 56 years old, having been born in 1962. He works as a farmer and is also a Catechist [Particulars Withheld]. The 2nd applicant, BC, was born on 6th October 1975 and is now 43 years old. She works as a secretary at [Particulars Withheld] Secondary School and resides with the 1st applicant at [Particulars Withheld].
4. The child the subject of this application was born on 14th September 2015 in Kakamega. He was born out of an incestuous relationship, his biological parents being cousins. He was therefore given up for adoption by both of his biological parents, both of whom were minors aged 17 and 15 respectively. Their guardians also gave their consent to the adoption, the basis of releasing the child being that he was a taboo in the community and it was in his best interests that he be adopted. Copies of letters from the child's minor parents and their guardians, as well as affidavits under section 158 (4) of the Children Act, are annexed to the application.
5. The child was placed in the custody of the Springs of Life Children's Home as a child in need of care and protection on 23rd November 2015. He was committed to the home on 2nd March 2016 in **Protection and Care Case No. 72 of 2016** by the Kakamega Children's Court. He was declared free for adoption and a freeing certificate Serial No. [particulars withheld] issued pursuant to section 156 (1) of the Children Act. The child was placed with the applicants on 2nd May 2017.
6. On 3rd November 2017, this court directed the Director, Children Services, to investigate and file a report on the suitability or otherwise of the applicants to adopt the child. It also appointed JCT the Guardian *ad Litem* in respect of the child.
7. The Guardian *ad Litem* filed a report dated 20th November 2017 in which she terms the applicants as responsible, social and trustworthy. They have taken good care of the child, and she recommends that they be allowed to adopt him, noting that he is doing well, is active and in good health.
8. In his report filed in court on 18st January 2018, the Children Officer, Kericho, indicates that the Sub-county Children Officer, Kipkelion, visited the applicants' home on 27th November 2017. She notes in the report that the family is economically stable. The applicants draw an income from farming, mostly coffee, maize, beans and vegetables. They own 5 acres of land which they use for farming, while the prospective adoptive mother works as a secretary at [particulars withheld] Secondary School. They have a 3 bedroom semi-permanent house. Her observations are that the applicants are suitable as adoptive parents.
9. I have considered the application before me, the affidavits and other documents annexed, and the reports of the Guardian *ad Litem* and the Sub-County Children Officer, Kipkelion. I note that the applicants are husband and wife, married in a monogamous union, and are

practicing Catholics. They have their own home on a 5 acre farm on which the 1st applicant practices farming, while the 2nd applicant is a Secretary at a secondary school. They are 56 and 43 years old respectively and therefore within the age bracket prescribed under section 158 (1) of the Children Act. They therefore qualify to adopt the child, who is now 3 years old, having been born on 14th September 2015. They have lived at their home since 2000, and they live with the 1st applicant's mother and two boys and two girls, the nieces and nephews of the 1st applicant.

10. I have also noted the circumstances of the child the subject of this application. He was born to parents who were themselves children, the father 15 and the mother 17 years old at the time of the child's birth. His parents were cousins, and he was therefore considered a taboo in the community of his birth and was likely to face stigmatization and neglect. His parents and their guardians therefore willingly gave him up for adoption.

11. Taking all the facts and circumstances of this case into consideration, I am satisfied that it is in the best interests of the child that the applicants should be authorized to adopt him.

12. I therefore allow the application dated 18th October 2017 and hereby authorize the applicants, SKK and BC to adopt the child currently identified and known as Baby NO *alias* NO *alias* EK. The child shall be renamed EK and his date of birth shall be 14th September 2015. He is declared a citizen of Kenya.

13. I direct the Registrar General to make the appropriate entries in the Adopted Children's Register in respect of the child, and the Registrar of Births to issue a birth certificate in respect of the child.

14. I appoint WKM and MCM, the brother and sister-in-law of the 2nd applicant respectively, the legal guardians of the child should any misfortune befall the applicants.

15. The Guardian *ad Litem* is hereby discharged.

16. It is so ordered.

Dated Delivered and Signed at Kericho this 30th day of November 2018.

MUMBI NGUGI

JUDGE