



REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA AT KIAMBU
ADOPTION CASE NO 11 OF 2018
IN THE MATTER OF ADOPTION OF BABY W. S. R. a.k.a W. N.

BY

M. M. N.....APPLICANT

J U D G M E N T

1. The Applicant is a female aged 33 years. She is a Kenyan, single and has never been married. She has one biological child of her own R. N. a male about 2 aged years. The Applicant is currently employed as an administrative assistant with the U. S. Embassy Nairobi She resides at Ndeiya in Kiambu County. The Applicant is desirous of adopting baby **W. S. R. a.k.a. W. N.**, a male born on 13th March 2013 at Tigoni District Hospital. The biological mother **S. K. J.** gave up the child for adoption before birth, citing inability to care for him and lack of social support from the extended family. On 8th March 2013 she signed a consent releasing the then unborn the child to K. K. P. 1. Adoption Society.

2. The child was placed under the care of Nest Children Home in the same month, and committed officially to the home pursuant to an order made in June 2013, by the SPM's Court Limuru in **Protection and Care Case No. 14 of 2013**. A previous application by a foreign national **L R B** to be appointed a guardian in respect of the baby was unsuccessful. The Applicant's relationship with the minor started at the Nest Children Home where Applicant was working at the time. And subsequently, during the period when the baby was placed in the foster care of **L R B**, the Applicant worked as a nanny for the said person.

3. However the foster care arrangement was terminated after an application by the said **L R B** to be appointed as a guardian was dismissed by the Children's Court in **Nairobi Misc. Children's Cause No. 157 of 2015**. An appeal to the High Court was dismissed. The Applicant has, in compliance with the orders of this court on 21st June 2018 explained her relationship with L R B and the circumstances in which she came to relate with her and the subject child.

The child was declared free for adoption on 31st September 2013 by **KKPI** Adoption Society vide **Certificate No. [particulars withheld]**. It appears that the child was placed in the care and control of the Applicant by the Nest Children Home after L R B gave up on her quest for appointment as a guardian and returned to the U.S.A

The child has been in the care of the Applicant since May 2018.

5. On record are social enquiry reports by the adoption society, the guardian *ad litem* and the Children Officer, Limuru Sub-County. All the reports are favourable and confirm that the Applicant is financially and emotionally stable, and capable of providing for the upkeep and education of the child. The Children Officer's report dated 20th September 2018 indicates that the child had bonded well with the Applicant, and her biological son R. N, as well as her extended family, who support the adoption.

6. The Applicant is currently preparing to enroll the child into a new school. Reviewing all the reports, I am satisfied that the Applicant's adoption of the minor would be in his best interest as envisaged in Article 53 of the Constitution and Section 4(3) of the Children Act. The Applicant appears to be genuinely attached to the child and stepped in to take him in after the departure of **L R B**.

The Applicant herein has fulfilled the requirements for a local adoption having demonstrated prior to adoption the capacity to give proper care and parental love to the child. Her evident motivation is to provide and care for the child. She has a good social support network in her family and is financially secure.

7. In the circumstances, I would grant prayers 2 to 7 of the Originating Summons filed on 21st June 2018. In light of some of the facts

disclosed herein, and out of abundant caution, and pursuant to Section 163(2) (b) of the Children Act, the Court deems it prudent to attach the condition that for a period of five years, the minor may not be removed from the jurisdiction of this court without leave of the court.

DELIVERED AND SIGNED AT KIAMBU THIS 23RD DAY OF NOVEMBER 2018

C. MEOLI

JUDGE

In the Presence of:

Miss Mulumba holding brief for Mrs Wainaina for the Applicant

Mary Muthumbi – Children Officer, Limuru Sub County - Present

Applicant- Present

Legal guardians – Present

Minor – Present

Guardian *ad litem* – Present

Court Clerk - Kevin