



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI

ADOPTION CAUSE NO. 95 OF 2013 (O.S)

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

IN THE MATTER OF ADOPTION OF BABY E I ALIAS E K M

BY

J M I (APPLICANT)

JUDGMENT

1. The Applicant J M I is a Kenyan citizen. She is single and has never been married and has no biological children of her own. She wishes as a single Applicant to adopt the child known as Baby E I alias E K M, a minor of the female sex through the Originating Summons dated 22nd March, 2013. The Applicant indicates that she is a Civil Servant working with National Intelligence Service based at the Headquarters, Ruaraka and is financially stable.
2. The child who is the subject of this adoption was found by a Good Samaritan having been abandoned on 15th February, 2008 within Matuu town, in a bush. The matter was reported at Matuu Police Station, vide OB No. [Particulars withheld], on 15th February, 2008. The baby was committed to the Imani Children's Home by the Children's Court at Nairobi in P&C Case No. 280 of 2008 vide an order dated 12th September, 2008.
3. A letter from the police dated 10th November, 2011 indicated that since the child was placed under the care of Imani Children's Home, no one had claimed her. Any assistance towards the child's best interest was recommended.
4. Prior to the hearing of the adoption application, Child Welfare Society of Kenya prepared and filed a report in court. They also issued a certificate No. [Particulars withheld] dated 24th January, 2012 declaring the child free for adoption. The guardian ad litem J S K filed a report on 12th September, 2018 which was favourable and recommended the adoption of the child by the Applicant.
5. An officer from the office of the Director of Children's Services made home visits and established that the Applicant is financially and emotionally capable of providing for the up keep and education of the child. She filed a report dated 28th May, 2013 recommending the adoption for reasons that the child stands to gain from the opportunities provided by becoming the daughter of the Applicant as opposed to living all her life in an institution as an abandoned child.
6. The child was in court during the hearing and appeared to have bonded well with the Applicant. She was vivacious and confident. She seemed to trust the Applicant and regard her as her parent. The Applicant's family members are said to be aware of the proposed adoption and support it.
7. The Applicant meets the social parameters that are considered relevant to her taking on parental responsibility and custody of the child in this matter, on a permanent basis as would be conferred by the adoption order sought. The child was released to her for foster care on 25th January, 2009 vide a foster care agreement and has been in her continuous care and protection since then.
8. M M I a sister to the Applicant, has consented to be appointed as the legal guardian in the event that the Applicant is incapacitated and cannot care for the child.
9. It is important to note that, the orders sought by the Applicants relate to a child. In any matter concerning a child the best interests of a child are what is of paramount importance as provided for under **Article 53(2)** of the **Constitution** and **section 4(3)** of the **Children Act No. 8 of 2001**.
10. After a careful assessment of the reports filed herein and from the observation of the interaction of the Applicant and the child during the hearing, this court has formed the opinion that it would be in the best interest of the child to be adopted by the Applicant, to give her a stable

home.

11. Reasons wherefore I allow the prayers sought in the Originating Summons dated 22Nd March, 2013 and order as follows:

- i. The Applicant, J M I is hereby allowed to adopt **Baby E I alias E K M**, who shall henceforth be known as **E K M**.
- ii. Her date of birth shall be presumed to be **3rd February, 2008**. She is presumed to have been born in Kenya in accordance with **Article 14(4)** of the **Constitution**, and the place of birth shall be Matuu.
- iii. M M I, is hereby appointed as the legal guardian of the child in the event that the Applicant dies, or is incapacitated by ill-health.
- iv. The Registrar General is directed to enter this Order in the Adoption Register.
- v. The Director of Immigration is hereby authorised to issue the child with a Kenyan passport.
- vi. The guardian ad litem is hereby discharged.

It is so ordered.

SIGNED DATED and DELIVERED in open court this 22nd day of November, 2018.

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L. A. ACHODE

JUDGE