



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI

ADOPTION CAUSE NO. 61 OF 2013 (OS)

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

IN THE MATTER OF ADOPTION OF BABY E

BY

JAM AND EAO (APPLICANTS)

JUDGMENT

1. The Applicants **JAM** and **EAO** a husband and wife, moved this court for orders of adoption of a child through an Originating Summons dated 11th February, 2013.
2. The Applicants were married in 2006, are Tour Consultant and a business woman respectively. They are aged 47 and 42 years respectively. The two do not have a child of their own and desire to experience the joy of parenting and opted for an adoption.
3. The child **baby E** was born of one **LNO** who was aged 17 years at the time of giving birth at the Kenyatta National Hospital on 16th July, 2009. LNO offered the child for adoption. She left the child at the hospital for several months and the child was released to Mama Ngina Children's Home under the Child Welfare Society of Kenya. Since 18th of December, 2009 the child was placed with the Applicants for foster care. No claim over child has been made to date.
4. On the 13th of June 2014 the court appointed guardian *ad litem* and directed the said guardian *ad litem* and the Department of Children Services to make investigations and file their respective reports.
5. The two reports were filed on the 23rd of July, 2014 and 28th October, 2015. The guardian *ad litem* highly recommended the Applicants as suitable persons to adopt the child. She also found that the child had bonded well and was happy with the Applicants. The report by the Department which was fairly comprehensive reported that the Applicants are mature and responsible person capable of taking up the task of parenting. They have bonded well with the child, have the means to provide for the child and live in a conducive environment.
6. In a letter dated 20th November 2017 the Children Welfare Society further informed the court that the child was not declared free for adoption until 15th December, 2013 though she was placed with the Applicants from 18th December, 2009 to allow a withdraw should the mother of the child wish to reunite with the child. They attached a consent signed by the child's mother LNO and her guardian BN.
7. I have considered the application, the reports filed on the suitability of the parents and whether the adoption would be to the best interest of the child. I have also taken into account the fact that the child was placed in a foster home before she was declared free for adoption. Despite the misgivings by the department of Children Services on the process of placement with foster parents, no harm was occasioned to the child. After all the child was simply placed with foster parents for care and attention and the explanation by the Welfare Society of Kenya appears reasonable though a period of 4 years was unduly long. What is evident however is that the child's mother who is of age now has not claimed the child and it would be to the best interest of the child that she finds a home and suitable parent.
8. Based on the above I find that the Applicants are suitable persons to adopt the child and that this adoption would be in the best interest of the child.
9. Consequently, I order and direct as follows:
 - a) **JAM** and **EAO** be and are hereby authorised to adopt Baby E who will henceforth adopt the name **SBOM**
 - b) That the Registrar General do enter this adoption in the register of adoption.

c) That **JMA** be and is hereby appointed as the legal guardian of the minor.

DATED, SIGNED and DELIVERED at NAIROBI this 22ND DAY OF November, 2018.

ALI-ARONI

JUDGE

In the presence of:

Counsel for the Applicants.....