



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI

MILIMANI LAW COURTS

FAMILY DIVISION

ADOPTION CAUSE NO. 1 OF 2018

IN THE MATTER OF THE CHILDREN ACT, 2001

AND

IN THE MATTER OF THE ADOPTION OF

BABY MP alias CBO.....MINOR

BY

AKM.....1ST APPLICANT

JNM.....2ND APPLICANT

JUDGMENT

The Applicants herein sought by their Originating Summons, Statement and Affidavit in support, orders allowing them to adopt Baby **MP alias CBO** (hereinafter the child). The Applicants are 42 and 41 years old respectively married since 2007 but do not have a child of their own. The Applicants filed financial, health and clearance records that confirm that she will cater for the child's social growth and development.

The child in this matter was born on 7th April 2016. A good Samaritan rescued the child abandoned in a sugarcane plantation within Uriri sub county who proceeded to report the matter to Uriri Police Station vide OB No. [xxxx].

The child was committed to New Life Children's Home Trust Kisumu on 27th April 2016 as a child in need of Care and Protection Case No. 6 of 2016 in accordance with **Section 119 of the Children Act 2001** vide the Children's Court in Nairobi.

The child was then placed in the custody of the Applicants for mandatory bonding prior to adoption. She has since then been in their continuous custody and care of the applicant. According to correspondence from relevant police authorities at the Police Station, no one has come forward to claim the child. Buckner Kenya Adoption Services issued a certificate declaring the child free for adoption pursuant to **Section 156(1) of the Children Act**. The said freeing certificate is Serial No. [xxxx] and the same is dated 28th October 2016 **and** filed their report on 4th April 2018 and recommended the adoption.

In an application filed on 9th January 2018 the Applicants sought orders that IWM be appointed as the child's guardian *ad litem* but filed another application on 7th June 2018 to have ENI in place of IW, and that the Director of Children's Services be ordered to submit a report on the applicants' fitness to adopt the infant.

The guardian *ad litem* filed a report which favoured the proposed adoption of the child by the Applicants. Another report in respect of the proposed adoption of the child by the Applicants was prepared by the Director of Children's Services and filed on 25th June 2018. This report was similarly in favor of the proposed adoption. Both reports filed in respect of this proposed adoption have recommended that this Court allows the Applicant to adopt the child.

This is a local adoption. It is evident that the Applicants have fulfilled all the legal requirements relative to the adoption of the child. The consents of the biological parents of the child are dispensed with in accordance to Section 159(1) (a) of the Children Act, 2001 since the child was abandoned at birth. This Court is satisfied that the Applicant is qualified and able to take care of the child. The home visits by the

guardian *ad litem* confirm that the Applicant is indeed capable of providing for the child. The Report from the Department of the Children's Services established that the Applicants have the financial and emotional capability to provide for the upkeep and education of the child. The child has bonded well with the Applicants according to the Guardian *ad litem*'s report. The child has settled in very well and embraced their homes as hers.

After careful examination of the documents presented, it is the opinion of the court that this Adoption would be in the best interest of the child. Hence, this Court allows the Applicant's application. The Applicants are hereby allowed to adopt Baby **MP alias CBO.MAO** is hereby appointed as the legal guardian of the child should any eventuality arise. This Court directs the Registrar General to duly enter this order in the Adoption Children Register. The guardian *ad litem* is hereby discharged.

It is so ordered.

DELIVERED DATED & SIGNED IN OPEN COURT ON 20TH DAY OF DECEMBER 2018.

M.W.MUIGAI

JUDGE FAMILY DIVISION –HIGH COURT