



**REPUBLIC OF KENYA**  
**IN THE HIGH COURT OF KENYA**  
**AT NAIROBI**  
**ADOPTION CAUSE NO. 51 OF 2018 (O.S)**  
**IN THE MATTER OF THE CHILDREN'S ACT NO. 8 OF 2001**  
**IN THE MATTER OF ADOPTION OF BABY A J**

**BY**

**JWM**

**JUDGMENT**

1. The single Applicant JWM is a Kenyan citizen. She got married in Church in 1995 and was blessed with one (1) daughter. She and her husband wished to adopt the child known as Baby AJ, a minor of the female sex through the Originating Summons dated **16<sup>th</sup> April, 2018** but the male applicant passed on before completion of the process. The Applicant indicates that she is a Business Woman and is financially stable.
2. The child who is the subject of this adoption was abandoned on 28<sup>th</sup> July, 2013 at Kiambu. Her mother left her in the care of a woman stating that she was going to the toilet but she did not return. The matter was reported at Kiambu Police Station, vide OB NO. 24/28/07/2013. The Baby was later taken to Kiambu District Hospital for safe custody. The baby was committed to the Mogra Rescue Centre through the children's court at Kiambu vide P&C Case No. 46 of 2013 on 1<sup>st</sup> August, 2013.
3. A letter from the police dated 19<sup>th</sup> August, 2014 indicated that since the child was placed under the care of Mogra Rescue Centre no one had come forward to claim her. Any assistance towards the child's best interest was recommended.
4. Prior to the hearing of the adoption application, KKPI Adoption Society prepared and filed a report in court. They also issued a certificate No. 566 dated 27<sup>th</sup> August, 2014 declaring the child free for adoption. The guardian ad litem John Njoroge Kiuna filed a report on 22<sup>nd</sup> November, 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 on 27<sup>th</sup> September, 2018 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 **29<sup>th</sup> March, 2014** vide a foster care agreement filed in court as exhibit 7 and has been in her continuous care and protection since then.
8. LWN, a younger sister to the Applicant, consented to be appointed 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.

**11.** Reasons wherefore I allow the prayers sought in the Originating Summons dated 16<sup>th</sup> April, 2018 and order as follows:

- i. The Applicant, JWM is hereby allowed to adopt **Baby AJ** who shall henceforth be known as **AJ Waithira Muturi**.
- ii. Her date of birth shall be presumed to be 29<sup>th</sup> February, 2013. 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 Kiambu.
- iii. LWN, is hereby appointed 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 **18<sup>th</sup>** day of **December, 2018**.

**L. A. ACHODE**

**HIGH COURT JUDGE**