



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA

AT NAKURU

ADOPTION CAUSE NUMBER 27 OF 2017

IN THE MATTER OF BABY GB AKA BWM.....MINOR

AND

JMW.....1ST APPLICANT

GWM..... 2ND APPLICANT

JUDGMENT

The Application is brought by way of Originating Summons and is dated the 10th May, 2017. The Applicants **JMW** and **GWM** through their advocate Obura Mbeche & Company Advocates seek the following orders:

1. Spent.

2. Spent.

3. THAT the consent of the biological parent of BABY GB be dispensed with since the child was abandoned so soon after birth.

4. THAT the applicants be authorized to adopt BABY GB and the child be known as BWM henceforth.

5. THAT the Registrar-General do make the appropriate entries in the adopted children's register in respect of BWM.

6. THAT the court does issue such other orders as may be necessary in the best interest of the child.

7. THAT costs be in the cause.

The Applicants **JMW** and **GWM** are husband and wife. They solemnized their marriage at the St. Peters Church in the Nyandarua District in the Central Province on 22nd April, 1989 under the **African Christian Marriage and Divorce Act (Cap 151) Laws of Kenya** and were issued with a certificate of marriage serial number [particulars withheld].

The applicants reside in Nyandarua County. The 1st applicant is a [particulars withheld] while the 2nd applicant is a farmer and housewife. They have since been blessed with five (5) daughters of their own. Being without a son has been a challenge to them hence the desire to adopt a boy child who will brighten their home. They have love for children and desire that baby **JMW** aka **GWM** together with their daughters will also be an heir and inherit all that they have acquired.

Baby **JMW** aka **GWM** was presumably born on the 7th August, 2014. He was found abandoned at Rongai Police Post by a police officer who took it to Provincial General Hospital Nakuru for medical check up on the same day of rescue. The matter was reported to the Nakuru Central Police Station where it was booked vide OB No. [particulars withheld]/11/8/2014. Baby **JMW** aka **GWM** was referred to Haven of Hope Baby Centre where he was admitted vide an admission letter dated 8th August, 2014 weighing 3.7 kilogrammes and his age estimated to be one (1) day. He was found to be in good general health condition and recovering from umbilical cord infection. On 13th August, 2014, baby **JMW** aka **GWM** was officially committed to Haven of Hope Baby Centre vide Nakuru **Children's Court Protection and Care Case Number 334 of 2014**. The institution ensured that the child received all the immunizations as per the Kenya Expanded Programme on immunization guidelines. The medical records available reveal that the minor's health is good and that his HIV status is negative.

On 17th February, 2015 the Nakuru Central Police Station confirmed that the police efforts to trace the relatives had yielded no fruits and that no one claimed the child since he was left abandoned at the Rongai Police Station. Haven of Hope Baby Centre also reported that during his stay in the institution no parent or relative turned up to claim the child and neither have they received any information from the police department concerned regarding any claimants.

The applicants made the adoption application to Buckner Kenya Adoption Services on 18th July, 2016 where they applied to be placed with a baby boy. The institution personnel conducted a home assessment on 7th September, 2016 and observed that the surrounding environment was conducive for a growing child. The applicants were taken through the memorandum headed - Explanatory Memorandum for Adoptive Parents of Adopters by the institution which they confirmed having understood and appended their signatures on the certificate of acknowledgement dated 16th August, 2016.

The institution also established that the applicants met the legal and social pre-requisites to adopt a child according to the **Children Act 2001 and the Children Adoption Regulations 2005**. Baby **JMW** aka **GWM** was therefore declared free for adoption by the institution's case committee and issued with a Certificate of Declaring a Child Free for Adoption serial number 0061 dated 6th March, 2015. Baby **JMW** aka **GWM** was placed under the care and control of the applicants on 25th November, 2016 where he has since enjoyed parental love, care and good nurturing accorded to him.

On 8th day of May, 2018 the Court directed the Director of Children's Services in the Ministry of Labour and Social Protection, Department of Children's Services to conduct investigations as the suitability of the applicants to adopt baby **JMW** aka **GWM**. Rev. DNK of P.O. Box 39, MIHARATI was appointed as the *Guardian ad Litem* of baby **JMW** aka **GWM** during the hearing of these adoption proceedings.

The personnel in the children's Department conducted a home visit and interrogated the applicants. Hope W. Muriithi the Sub-County Children's Officer, Nyandarua South for the Director Children Services filed a favourable report dated 16th July, 2018.

Upon reading the above report and satisfying myself that all the legal requirements have been adhered to, this Court is satisfied that the applicants are suitable persons to adopt baby **JMW** aka **GWM** and that they are also financially stable and have the means to provide and care for him.

For the above reasons, the Court hereby orders as follows:

- 1. THAT the consent of the biological parents of BABY GB be and is hereby dispensed with since the child was abandoned so soon after birth.**
- 2. THAT the applicants be and are authorized to adopt BABY GB and the child be known as BWM henceforth.**
- 3. THAT the Registrar-General do make the appropriate entries in the adopted children's register in respect of BWM.**
- 4. THAT costs be in the cause.**

Dated and Signed at Nakuru this 18th day of December, 2018.

A. K. NDUNG'U

JUDGE