



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA

AT NAKURU

ADOPTION CAUSE NUMBER 18 OF 2018

IN THE MATTER OF BABY SMA AKA SVM.....MINOR

AND

DKM 1ST APPLICANT

DKM.....2ND APPLICANT

JUDGMENT

The Application is brought by way of Originating Summons and is dated 23rd October, 2018. The Applicants **DKM** and **DKM** through their advocate Muchiri Gathecha & Company Advocates seek the following orders:

1. Spent.

2. Spent.

3. Spent.

4. THAT the applicants be authorized to adopt the said child and the child be henceforth called SMK.

5. THAT the child be presumed to be a Kenyan citizen having been found in Kenya at the time of birth.

6. THAT the Registrar-General do make the appropriate entries in the adopted children's register in respect of the minor and further the Registrar of Births and Deaths do issue a birth certificate in respect thereof.

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

8. THAT the costs be in the cause.

The Applicants **DKM** and **DKM** are husband and wife. They solemnized their marriage at the Registrar's Office in Nakuru District of the Rift Valley Province of Kenya on 27th April, 2011 under the **Marriage Act Cap 150 Laws of Kenya** where a certificate of marriage serial number [xxxx] was issued. The Applicants reside within Nakuru County. The 1st applicant is a salesman with [particulars withheld] while the 2nd applicant is a P1 teacher. The applicants have been blessed with one female biological child of their own namely **SND**. Due to health complications of the 1st applicant, the couple are unable to sire another child of their own hence the desire to adopt baby **SMA aka SMK**. They also have an urge to give a needy child a home, care and protection and also wish him to benefit from their properties and to make him an heir to their properties.

Baby **SMA aka SMK** was presumably born on 26th November, 2009. He was abandoned in Gilgil Dispensary by the mother (EW) at birth as she refused to keep the baby as she said the baby was born after an incident of rape. Baby **SMA aka SMK** was placed at Makarius Children's home for temporary custody. The matter was reported at Nakuru Police Station vide OB number [particulars withheld]/20/7/10. Baby **SMA aka SMK** was officially committed to Africa Gospel Church Baby Center vide the **Nakuru Children's Protection and Care case number [particulars withheld] of 2010**.

On 15th November, 2018 the court ordered Director of Children Services in the Ministry of Labour and Social Protection, Department of Children's Services to conduct investigations as to the suitability of the applicants to adopt the minor and submit a report on his findings to court. ER of P.O. Box 17310-20100 NAKURU was appointed as *Guardian ad Litem* of the minor herein during the hearing of these

adoption proceedings. The consent of the biological parents of the minor was dispensed with.

On the 10th March, 2011, the Nakuru Police Station confirmed that no one has come forward to claim for the minor and attempts to trace his kindred have been futile.

DKM and **DKM** vide a letter dated 13th July, 2011 to the Kenya Children's Home requested to be allowed to adopt a male child from the home. They were taken through the Explanatory memorandum of Adopters by the Kenya Children's Home Adoption Society which they confirmed having understood and appended their signatures on the Certificate of Acknowledgement dated 14/7/2011. The Society's Case Committee granted approval and issued a Freeing Certificate dated 21st June, 2011 pursuant to **Section 156(1) of the Children's Act 2001**.

The Children's Department personnel made a home visit on the applicants on 26th November, 2018 and conducted investigations. Mr. Mwambi Mongare, the County Children Coordinator in a report to Court dated 14th December, 2018 recommended the Applicants fit to adopt baby **SMA aka SMK**.

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 **SMA aka SMK** 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 applicants be and are hereby authorized to adopt the baby SMA aka SMK and the child be henceforth called SMK.

2. THAT baby SMA aka SMK be and is hereby presumed to be a Kenyan citizen having been found in Kenya at the time of birth.

3. THAT the Registrar-General do make the appropriate entries in the adopted children's register in respect of the minor and further the Registrar of Births and Deaths do issue a birth certificate in respect thereof.

4. THAT the costs be in the cause.

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

A. K. NDUNG'U

JUDGE