



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI

ADOPTION CAUSE NO. 259 OF 2014

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

AND

IN THE MATTER OF APPLICATION FOR THE ADOPTION OF

JM (MINOR)

AND

ORIGINATING SUMMONS OF AN APPLICATION FOR AN ADOPTION ORDER

PFH.....1ST APPLICANT

AND

JMM.....2ND APPLICANT

JUDGMENT

1. The Court has before it an application seeking an order authorizing the Applicants to adopt the Child the subject of these proceedings. The 2nd Applicant is the biological mother of the child. The Applicants got married on 13/12/2010 at [particulars withheld] Hotel Nairobi in a Civil Wedding.

2. The Application is brought by Originating Summons dated 31.10.2014 seeking the following orders;

(i) THAT JMM be appointed Guardian ad Litem in respect of JM

(ii) THAT the 1st Applicant PFH be authorized to adopt JM

(iii) THAT the name of the Child be changed to JMH

(iv) THAT the Court do make an order directing the Registrar General to make an entry in the Adopted Children Register recording the adoption.

(v) THAT any other Order be made as this court may deem fit.

3. The Application is supported by the Affidavit of the 1st Applicant in which he had deposed that he is 55 years old and is gainfully employed by [particulars withheld] as the County Director.

4. The 1st Applicant stated that he is married to the mother of the Child and he wishes to adopt her so that he can gain the privileges, rights and responsibilities of a parent.

5. The Applicants have been living with the Child since December 2012 and they have bonded very well.

6. The Director of Children's Services investigated the matter and filed a report on 11/12. 2017. The report which is dated 27/11/2017 states that this is a kinship adoption since the mother of the child (the 2nd Applicant) is married to the 1st Applicant.

7. It is also stated in the report that the 1st Applicant is not a Kenyan Citizen and that currently there is a Moratorium in operation barring foreign adoptions and further that the 2nd applicant has not said where the father of the child is.

8. The Applicants filed an Application dated 4.7.2017 and were granted orders that GM be appointed guardian ad litem in this case. The guardian ad litem filed a report dated 15.1.2018 and firmly recommended the Adoption of JM by the 1st and 2nd Applicants.

9. Change Trust Adoption Society also wrote a report dated 28.3.2017 filed in Court on 18.1.2018 and they also recommended the adoption.

10. I have considered the originating summons dated 31.10.2018 together with the Affidavit in Support of the same. I have also considered the Reports filed by the Director of Children's Services, the Guardian ad litem and the Change Trust Adoption Society.

11. The Applicants have two other biological sons CM1 born on 18.9.2012 and CM2 born on 10.10.2015.

12. The 1st Applicant is also a Permanent Resident as evidenced by his Certificate of Permanent Residence dated 13.9. 2018 and therefore the Moratorium does not apply to him. The moratorium was for barring inter-country adoption of Kenyan Children to foreigners.

13. The 1st Applicant apart from being a Kenyan Permanent Resident is also married to the mother of the Child and this is therefore a Kinship Adoption. It is in the best interest of the Child that the Applicants be allowed to adopt the child.

14. I find that 1st and 2nd Applicants have satisfied all the requirements for adoption of the child and I hereby authorize them to adopt the child and to name her JMH.

15. I further order that CKM be and is hereby appointed as legal guardian of the Child.

16. The Registrar- General is directed to enter the adoption order in the adoption register.

17. I further order that the Guardian ad Litem be discharged.

Orders to issue accordingly.

DELIVERED, SIGNED AND DATED IN OPEN COURT THIS 18TH DAY OF December 2018

ASENATH ONGERI

JUDGE OF THE HIGH COURT OF KENYA, NAIROBI

IN THE PRESENCE OF:

Applicants