



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI

ADOPTION CAUSE NO. 83 OF 2018 (O.S)

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

IN THE MATTER OF ADOPTION OF BABY E AKA I

BY

SCN AND SMM (APPLICANTS)

JUDGMENT

1. The Applicants SCN and SMM are in a monogamous marriage under Kikuyu Customary Marriage since 1994 and thereafter solemnized their marriage at the Anglican Church of Kenya on 20th September, 2017. They have no child of their own. They wish to adopt the male child known as Baby E aka I, through the Originating Summons dated 6th June, 2018. From the pleadings the court gathers that both Applicants are farmers. They reside in [Particulars Withheld] in Gatanga, Muranga County and both profess the Christian faith.

2. Records indicate that the minor in this matter was abandoned by an unknown person at Juja on 16th February, 2017. The matter was reported to Juja Police Station where it was booked via OB No. 20/16/02/2017.

3. On 13th April, 2017, the child was committed to Macheo Children's Home at Thika by the Thika Children's court vide P&C Case No. 78/2017. The Police at Juja confirmed that the biological parents of the child were not traced, nor did anyone come forward to claim the child. On 19th March, 2018 the Applicants took him into foster care with a view of adopting. A foster care agreement was signed on 19th March, 2018.

4. Prior to the hearing of the adoption application, Kenya Children's Home Adoption Society prepared and filed a report dated 6th July, 2018. They had also issued a certificate No. 1427 dated 21st February, 2018 declaring the child free for adoption. The guardian ad litem E N M filed a report which was favourable and recommended the adoption of the child by the Applicants.

5. An officer from the office of the Director of Children Services made home visits and established that the Applicants are financially and emotionally capable of providing for the up keep and education of the child. She filed a report on 19th October, 2018 recommending the adoption for reasons that the child stands to gain from the opportunities provided by becoming the son of the Applicants and that the Applicants have met all the requirements in the statute.

6. This is a local adoption and from the record the Applicants have fulfilled all the legal requirements relating to the adoption of the child. The consent of the biological parents was dispensed with since the child was abandoned at infancy and the parents could not be traced to give the consent. The child was in court during the hearing. The Applicants' family members are said to be aware of the proposed adoption and support it.

7. From the foregoing, this court is of the considered view that it is in the best interest of the child to be adopted by the Applicants. Reasons wherefore, I allow the prayers sought in the Originating Summons dated 6th June, 2018 and order as follows:

- i. The Applicants, SCN and SMM be and are hereby allowed to adopt **Baby E aka I** who shall henceforth be known as **DNC**.
- ii. His date of birth shall be presumed to be 16th February, 2017. He is presumed to have been born in Kenya in accordance with **Article 14(4)** of the **Constitution**, and the place of birth shall be Thika.
- iii. M W M and M N are hereby appointed as the legal guardians of the child in the event that the Applicants die, or are 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 **18th day of December, 2018.**

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L. A ACHODE

HIGH COURT JUDGE