



REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA AT NAIROBI
MILIMANI LAW COURTS
FAMILY DIVISION
ADOPTION CAUSE NO. 170 OF 2015
IN THE MATTER OF THE CHILDREN ACT 2001
AND
IN THE MATTER OF BABY A.T. (A CHILD)
AND
IN THE MATTER OF AN APPLICATION FOR ADOPTION BY
P W.....1ST APPLICANT
L W.....2ND APPLICANT

JUDGMENT

1. The applicants are Kenyan couple aged 46 and 41, respectively. The 1st applicant is a Tour Guide/Driver and the 2nd applicant operates a boutique. They got married in 1997 and have a baby boy who is about one year. On 1st July 2015 they filed this originating summons seeking to be allowed to adopt child A.T. who was born on 6th May 2011.
2. Child A.T. was born to P W W at Nyeri Provincial General Hospital. On 19th May 2011 the mother took the child to Little Angels Network in Nairobi and gave it up for adoption. She was asked to return after six weeks to sign the final consent, or claim the child. She did not return. The child was admitted to New Life Home Trust. The matter was reported to police and to the Children Office. On 6th June 2011 the child was formally committed to the Home through Protection and Care case number 190/2011 by the Senior Resident Magistrate at Children Court in Nairobi. Efforts to trace the mother of the child were futile. The child's grandmother was traced and she signed the consent on 28th April 2014 to give up the child for adoption. On 30th April 2014 Little Angels Network gave certificate No. 001442 declaring the child free for adoption. The applicants have had the custody of the child since it was one year. In fact, it was during this period of custody that they managed to get their biological child. This is after 13 years of marriage without a child.
3. On 30th November 2015 the court appointed J M M as guardian *ad litem*. She conducted a home study of the applicants following which she prepared a report to say that the child has bonded well with the

couple and its extended family. The child is in good health and has brought happiness to the couple. The Director of Children Services filed a report on 8th November 2016 to say the applicants are socially, emotionally and financially capable of bringing up the child and providing for it. The applicants have no criminal record.

4. The court has considered all the reports presented in the case and has formed the opinion that it is in the best interests of the child to be adopted by the applicants. The applicants have provided a conducive home and family environment in which the child will grow and develop. They shall assume all parental rights and duties of the biological parents of the child once adopted, and shall treat the child as if she was born to them. They have been made aware that once the adopting order is made it will be final and binding during the lifetime of the child, and that the child shall have the right to inherit their property. The applicants shall not be able to give up the child owing to any subsequent unforeseen behaviour or other changes in the child.

5. Having been satisfied that all the legal requirements for a local adoption under the **Children Act (Cap. 141)** have been met, I issue the following orders:

- a. the applicants P W and L W Wa are hereby allowed to adopt child A.T. who shall henceforth be known as A M;
- b. the child's date of birth shall be 6th May 2011, and shall be presumed Kenyan having been born in Nyeri County in Kenya to a Kenyan mother;
- c. E G W is hereby appointed the legal guardian to the child in the event of death or incapacity of the applicants before she is of full age and fully self-reliant;
- d. The Registrar General is directed to enter this adoption in the Adopted Children Register;
- e. The Director of Immigration Services is hereby directed to issue the child A M with a Kenyan passport; and
- f. The guardian *ad litem* is hereby discharged.

SIGNED and DATED at NAIROBI this 25th JANUARY 2017

A.O. MUCHELULE

JUDGE

DELIVERED at NAIROBI this 26th JANUARY 2017

M. MUIGAI

JUDGE