



REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA AT NAIROBI
ADOPTION CAUSE NO. 152 OF 2016
IN THE MATTER OF THE CHILDREN ACT, 2001
AND
IN THE MATTER OF THE ADOPTION OF
BABY J.....MINOR
BY
B N..... 1ST APPLICANT
E K N..... 2ND APPLICANT
JUDGMENT

The Applicants, B N and E K N seek by their Application, orders of this court allowing them to adopt Baby J (hereinafter the child). The Applicants are husband and wife. They celebrated their marriage on 8th April, 2004 as per the marriage certificate attached. The 1st Applicant is employed as Engineer by [particulars withheld] and the 2nd Applicant is self-employed. Both Applicants live together in Nairobi. They have no biological children of their own. Thus, they wish to adopt the child.

The child who is the subject of the present adoption proceedings was found abandoned at Githurai, Kasarani- Nairobi County on 25th November, 2014 at about 8 pm by a Good Samaritan. She was to have been born on 24th March, 2014. A report on the matter of the abandoned child was made at Kasarani Police Station and was recorded vide OB No. 03/25/11/2014.

The child was referred to Happy Life Children's Home on 25th November, 2014 for care and protection and this is evidenced by the child's admission form into the said children center.

The Senior Resident Magistrate Children's Court sitting at Nairobi, in accordance with **Section 119** of the **Children Act 2001**, committed the child to Happy Life Children's Home on 1st April, 2015 vide **P&C No. 77/2015**.

The child was placed in the custody of the Applicants on 13th August, 2013 for mandatory bonding prior to adoption. She has since then been in the continuous custody and care of the Applicants. According to correspondence from relevant police authorities at Kasarani Police Station, no one has come forward to claim the child. A report to that effect has been filed in Court. Thus, this court dispenses with the consent of the child's biological parents to the proposed adoption of the child by the Applicants. The adoption

society, Buckner Kenya Adoption Services, issued a certificate declaring the child free for adoption pursuant to **Section 156(1)** of the **Children Act**. The said freeing certificate is no.0146 and the same is dated 12th August, 2016.

In an application filed on 1st December 2016, the Applicants sought among others, orders from this Court that S O O be appointed as the child's guardian ad litem, and that the Director of Children's Services investigates the suitability of the Applicants to adopt the child and submit a report. They further sought for an order that upon adoption the child be known as J S N. On 15th February, 2017, this Court issued an order appointing as the S O O the child's guardian *ad litem*, and further directing the guardian *ad litem* and the Director of Children's Services to file their respective reports in Court within 45 days.

Pursuant to **Section 156(1)** of the **Children Act**, before this matter came up for hearing, Buckner Kenya Adoption Services, the relevant adoption society, prepared and filed in Court a favorable report in respect of the proposed adoption of the child by both Applicants. Another report in respect of the proposed adoption of the child by the Applicants was prepared by the Director of Children's Services, and this report was similarly in favour of the proposed adoption.

All the statutory reports that have been filed in respect of the proposed adoption of the child by the Applicants have recommended that this Court grants the joint Applicants adoption of the child. This Court has evaluated the facts of this adoption. This is a local adoption. It is evident that the Applicants have fulfilled all the legal requirements relative to the adoption of the child. The consent of the biological parents of the child has been dispensed with since the child was abandoned at birth. This court has satisfied itself that the Applicants are qualified and able to take care of the child. The home visits by the guardian ad litem, the adoption society and the Director of the Children's Services officers established that the Applicants have the financial and emotional capability to provide for the upkeep and education of the child. This court observed the Applicants with the child in court and it was evident that in the period that the Applicants have had the custody of the child, the child has bonded well with them. The child considers the Applicants to be his parents.

On the basis of the a careful examination of the documents presented before me as well as the observations made therein, this court has formed the opinion that it would be in the best interest of the child to be adopted by the Applicants. Hence this court grants the Applicants' application. The Applicants, B N K and E K N, shall adopt Baby J. Henceforth, the child shall be known as J S N. His date of birth shall be 24th March, 2014. His place of birth shall be Nairobi County. He is presumed to be a citizen of Kenya by birth. A M and M B K (brother and sister in-law of the 1st Applicant) are hereby appointed as legal guardians of the child should the eventuality arise. This Court directs the Registrar General to duly enter this order in the Adoption Register. The guardian ad litem is hereby discharged. It is so ordered.

DATED, SIGNED AND DELIVERED IN OPEN COURT AT NAIROBI THIS 27TH DAY OF JULY 2017.

M.W MUIGAI

JUDGE

In the Presence of: -