



REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA AT NAIROBI
ADOPTION CAUSE NO. 148 OF 2016
IN THE MATTER OF THE CHILDREN ACT, 2001

AND

IN THE MATTER OF THE ADOPTION OF

BABY G FMINOR

BY

E G O..... 1ST APPLICANT

L A O.....2ND APPLICANT

JUDGMENT

The Applicants, E G O and L A O by way of Originating Summons and an Affidavit in support dated 21st November 2016 sought orders inter alia for the Adoption of Baby G F (hereinafter the child); that the child be named A A G upon granting of the adoption order; and that J N O and R A O (cousins to the male Applicant) be appointed as the child's Legal Guardians in the event that the Applicants are incapacitated in any way. The Applicants are husband and wife. They married under the Luo Customary Law in the year 2006 and solemnized their marriage on 14th August, 2013 as per the marriage certificate of serial number [Particulars Withheld] filed herein. The 1st Applicant is employed as a manager at [particulars withheld] Limited and the 2nd Applicant is an employee at the [particulars withheld] Kenya. Both Applicants live together in Nairobi. They have no biological children of their own hence their application for adoption. They expect to bring up the child in a Christian manner seeing as they are both Christians and were also brought up in Christian families.

The child in this matter is presumed to have been born on 22nd October, 2015 as evidenced by a certificate of birth of Serial Number [Particulars Withheld] . She was found abandoned at Nanyuki Teaching and Referral Hospital- Maternity Ward on 22nd October 2015. She was discharged to Neema House Infant Rescue Center. The matter was reported to Nanyuki Police Station- Laikipia Eastside OB Number [Particular Withheld]. The District Children's Officer, by his letter of release of the child dated 26th April 2016, stated that though the child's mother left her details at the hospital, efforts to trace her have been futile.

The child was referred to Neema House Infant Rescue Center on 27th October 2015 and this is evidenced by the child's admission form into the said children center. The Senior Resident Magistrate Children's Court sitting at Nanyuki, in accordance with **Section 119** of the **Children Act 2001**, committed the child

to Neema House Infant Rescue Center on 26th January 2016 vide Protection **and Care Case Number [...]**of 2016. 25th November, 2014.

The child was placed in the custody of the Applicants on 13th July 2016 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 Nanyuki Police Station- Laikipia East, no one has come forward to claim the child. A report to that effect has been filed in Court. 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, 2001**. The said freeing certificate is no.[...] and the same is dated 8th July, 2016.

In an application filed on 21st November 2016, the Applicants sought among others, orders from this Court that C A O be appointed as the child's guardian *ad litem*, and that the Director of Children's Services be ordered to investigate the Applicants' fitness to adopt the child and submit a report. On 15th February, 2017, this Court issued an order appointing C A O as 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, prepared and filed in Court a report in favor 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 it was similarly in favor of the proposed adoption.

This is a local adoption. The Applicants have fulfilled all the legal requirements relative to the adoption of the child. 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 adoption.

The consents of the biological parents of the child are dispensed with since the child was abandoned at birth. This Court has satisfied itself that the Applicants qualify and are capable of caring for the child. The home visits by the guardian *ad litem*, the adoption society and the Director of the Children's Services established that the Applicants have the social and financial capacity to provide for the upkeep and education of the child. The child has bonded well with the Applicants according to the Guardian *ad litem*'s report. The child considers the Applicants her parents.

After careful examination of the documents presented, it is the opinion of the court that this Adoption would be in the best interest of the child. Therefore, this Court allows the Applicants' application. The Applicants, E G O and L A O, are hereby allowed to adopt Baby G F. Henceforth, the child shall be known as A A G. Her date of birth shall be 22nd October, 2015. Her place of birth shall be Laikipia County-Laikipia East Sub County. She is presumed to be a citizen of Kenya by birth. J N O and R A O (cousins to the male 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: -