

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI

ADOPTION CAUSE NO. 91 OF 2016

IN THE MATTER OF THE CHILDREN ACT, 2001

AND

IN THE MATTER OF BABY A J ALIAS B W

W K.....1ST APPLICANT

F N W.....2ND APPLICANT

JUDGMENT

The Applicants, W K (“the 1st Applicant”) and F N W (“the 2nd Applicant”) by way of Originating Summons dated 4th July 2016 sought orders that, they be allowed to adopt Baby A J alias B W (hereafter “the child”). They also sought for orders that E K K be appointed as guardian ad-litem for the purposes of the Adoption proceedings, that the guardian ad-litem and the Director of Children Services do investigate their fitness to adopt the Child and file a Report and that Child be known as B W.

The Applicants are Kenyan citizens who live in Nairobi within the Republic of Kenya. They are husband and wife married on 2nd September, 1995 under the **African Christian Marriage and Divorce Act (now repealed)** as per the Marriage certificate attached to their Application. The 1st Applicant is a Public Officer at [particulars withheld] and the 2nd Applicant is a Procurement Officer at [particulars withheld]. They have been blessed 3 Issues of the marriage; one son and two daughters. Their motive towards this adoption is that they have always desired to assist a child in need by giving love, care and protection.

The child herein is a male child. He was found abandoned 8th December, 2013 at a bush in [particulars withheld] area of Makutano phase 4 in Thika. The matter was reported to Makongeni Police Station and was recorded vide vide OB No. [particulars withheld]. The child was then taken to Thika Level 5 Hospital where he was admitted at the new born unit for medical attention. The child was referred to Mogra Rescue Centre for temporary custody. He was later committed at the said Centre on 19th December, 2014 The Chief Magistrate Children's Court sitting at Thika vide **Protection and Care Case No. 215 of 2014** where he stayed until he was placed in the custody of the Applicants on 13th March, 2015. Correspondence from relevant police authorities at Makongeni Police Station stated that no one has come forward to claim the Child and that all attempts to trace the Child’s parents have failed. Accordingly, the Child was declared free for adoption 26th March 2015 by KKPI Adoption Society and a freeing certificate of serial no. [particulars withheld] was issued pursuant to **Section 156(1)** of the **Children Act**.

E K K the proposed guardian ad-litem was so appointed by the Court on 15th September 2016 and was to file a Report. In his Report based on home visit conducted on 9th October 2016, he stated that the Applicants had no criminal record and that they had clean bill of health. He further stated that had provided the Child with a conducive environment and that their extended family were aware of the intended adoption and they were very supportive. From his observations, he submitted that the Applicants and their biological children had bonded well with the Child and that he fit well in the family. He recommended that they be allowed to the Child as that will be in its’ best interests.

KKPI Adoption Society also filed its Report on 22nd March 2017 and the same was based on a home visit

conducted on 16th September 2014 at the Applicants home and a follow up visit on 3rd July 2015. In the Report, they submitted that the Applicants were socially, emotionally and financially stable to support the Child. Further, they submitted that the Applicants had understood the concept of Adoption and its implications and they were ready to pursue the process. They were also said to be hardworking and supportive to each other. They submitted that the Applicants have fulfilled all the legal requirements for adoption under the Children's Act and that they had proved to be capable of taking care of the Child since he was placed with them. Accordingly, they recommended the Adoption as it will be in the best interest of the Child.

The Director of Children Services also filed their Report on 22nd November 2016 which was similarly in favor of the proposed adoption. Their observations were that the Applicants had adequately provided for the Child since he was placed in their custody and that they were capable of taking on parental responsibility. They also submitted that the Applicants had no criminal records. They too recommended the adoption.

This is a local Adoption where both Applicants seek to adopt the Child herein. All the statutory reports that have been filed in respect to this proposed adoption are favorable to the Adoption. The Applicants have fulfilled all the legal requirements for local adoption under the **Children's Act, 2001**. The necessary consents of the biological children of the Applicants have been filed pursuant to **Section 158(4) of the Act**. The consent of the biological mother of the Child is hereby dispensed with pursuant to **Section 159(a) of the Act**.

On the basis of a careful examination of the documents presented before this Court as well as the observations made, this Court is satisfied that it would be in the best interest of the child to be adopted by the Applicants. Accordingly, this Court hereby orders that the Applicants, W K and F N W shall adopt BABY A J alias B W. Henceforth, the child shall be known as B W. He shall be presumed to be Citizen of Kenya by birth, born on 1st December, 2013 in Thika, Kiambu County. The 1st Applicant's sister J W K is hereby appointed as the legal guardian of the child should such eventuality arise. This Court directs the Registrar General to duly enter this adoption order in the Adoption Register. The guardian *ad-litem* is hereby discharged. It is so ordered.

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

M.W MUIGAI

JUDGE

In presence of:-

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