



**REPUBLIC OF KENYA**

**IN THE HIGH COURT OF KENYA AT NAIROBI**

**ADOPTION CAUSE NO. 54 OF 2016**

**IN THE MATTER OF THE CHILDREN ACT, 2001**

**AND**

**IN THE MATTER OF THE ADOPTION OF**

**BABY M I.....MINOR**

**BY**

**V W C..... APPLICANT**

**JUDGMENT**

The Applicant by way of Originating Summons and an Affidavit in support dated 21<sup>st</sup> April 2016 sought for Orders that she be allowed to adopt Baby M I the Minor herein; she also prayed for Orders that the Registrar General makes appropriate entries in the Adopted Children's Register. The Applicant also prays for an order that S N C (brother to the Applicant) and M N G (sister-in-law to the Applicant) be appointed Legal Guardians of the Child. The Applicant is a sole female Applicant. In 2007 she was married through the Kikuyu customary laws in Githumu. Due to personal differences, the marriage ended and the Applicant has no plans for a future marriage. The Applicant is employed with [particulars withheld] as a [particulars withheld]. She lives in Nairobi. She has no biological children of her own hence her application for adoption.

The child in this matter is presumed to have been born on 12<sup>th</sup> May 2009 as evidenced by a certificate of birth of serial number 3782072. She was found abandoned at Kayole Area One. The child was rescued by neighbors who took her to Kayole police station. The case was reported vide OB No. 71/02/06/2009

The child was referred to Imani Children's Home on 2<sup>nd</sup> June 2009 and admitted at Imani Childrens Home on Protection and care no. 206 of 2014 on 15<sup>th</sup> August 2014 by the Senior Resident Magistrate Children's Court sitting at Nairobi, in accordance with **Section 119** of the **Children Act2001**. The children's home reported that no parent or relative came to claim the child ever since.

The child was placed in the custody of the Applicant on 3<sup>rd</sup> May 2015 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 Kayole Police Station, 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 of serial no. 0072 and the same is dated 9<sup>th</sup> May 2016.

In an application filed on 21<sup>st</sup> April 2016, the Applicant sought orders from this Court that L M P, identity card number [...], be appointed as the child's guardian *ad litem*, and that the Director of Children's Services conducts investigations as to the suitability of the Applicant to adopt the child and submit a report, and that the child be known as M S W upon adoption. On 9<sup>th</sup> June 2016, this Court issued an order appointing L M P 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 and the Director of Children's Services prepared and filed in Court favorable reports in respect of the proposed adoption of the child by the Applicant.

This is a local adoption. It is evident that the Applicant has 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 Applicant have recommended that this Court allows the Applicant to adopt the child.

The consents of the biological parents of the child are dispensed with since the child was abandoned by both parents. This Court has satisfied itself that the Applicant is 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 established that the Applicant has the financial and emotional capability to provide for the upkeep and education of the child. The child has bonded well with the Applicant according to the Guardian *ad litem*'s report. The child considers the Applicant to be her mother.

Therefore, it is the opinion of this court that Adoption would be in the best interest of the child. This Court allows the Applicants' application. The Applicant V W C is hereby allowed to adopt Baby M I. Henceforth, the child shall be known as M S W. Her date of birth shall be 12<sup>th</sup> May 2009. Her place of birth shall be Nairobi County. She is presumed to be a citizen of Kenya by birth. S N C (brother to the Applicant) and M N G (sister-in-law to the 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 27<sup>TH</sup> DAY OF JULY 2017.**

**M.W MUIGAI**

**JUDGE**

**In the Presence of: -**