



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI

ADOPTION CAUSE NO. 249 OF 2015

IN THE MATTER OF CHILDREN'S ACT NO. 8 OF 2001

AND

IN THE MATTER OF ADOPTION OF M W (CHILD)

M W U..... APPLICANT

JUDGMENT

1. The Applicant, by an Originating Summons application dated 12th October, 2015 seeks to adopt a Kenyan female child known as Baby M W (aka Baby M L G). The applicant is a female adult aged 55 years, currently employed at [particulars withheld] Mission Hospital as an [particulars withheld]. She has no biological children and her desire to adopt is motivated by her need to start a family of her own and experience parental care and responsibilities to a child as well as the need to provide and support the less privileged.

2. The child who is the subject of this adoption proceedings was found abandoned at [particulars withheld] Village in Narok County at the home of one R W on 14th August, 2013. It is presumed that the minor then 2½ years was born on 18th April, 2011. The case was reported at Narok Police Station and an entry made vide OB No.[particulars withheld] and the child was referred to Baby Care Africa Gospel Church Centre. On 18th October, 2013, the child was legally committed to the said institution by the Narok Children's Court following P & C case No. 63/2013. The Narok Police Station through their letter dated 3rd July, 2014 confirmed that their attempts to trace any relatives/family of the minor were futile.

3. Baby M was declared free for adoption on 25th July, 2014 by Buckner Kenya Adoption Services vide certificate No. [particulars withheld]. She was released into the Applicant's custody for mandatory foster care pending adoption on 23rd October, 2014 and has remained in the Applicant's care since then.

4. The Adoption Society, guardian ad litem D W K and the Director of Children Services conducted home visits and filed their reports in court dated 18th January, 2016, 14th April, 2016 and 20th September, 2016, respectively. These reports were favourable and all recommended the Applicant's suitability to adopt the minor.

5. From the records presented before the court, the Applicant has demonstrated her capability to financially and emotionally provide the minor. For instance, she owns and lives in a four bed roomed house that is well furnished, spacious and from the home visits done, conducive for a child to be brought up in. She also owns shares at her employer's sacco, a car and an acre of land, assets of which will sustain the minor's future including inheritance.

6. The Applicant has been examined by a doctor and was found to be mentally and physically fit to raise a child. The extended family of the applicant has bonded with the minor and has been accepted into the family.

7. This is a local adoption, and the Applicant has fulfilled the requirements for a local adoption under the Children Act, 2001. The Applicant meets the legal age in compliance with Section 158(1) (a) of the Children Act. Since neither parents of the minor was ever found, this court dispenses with the consent required of ether parent, in line with Section 159(1) of the Act.

8. It is in the best interest of the child of tender age to be taken care of in the setting of a responsible and caring family or guardian. Article 53(2) (e) of the constitution as read together with Section 4 of the Children Act provides that the interests of a child are of paramount importance in so far as the treatment, care and handling of a child is concerned. Adoption proceedings are no exception.

9.The pleadings presented before the court discloses all relevant facts to enable the court make an informed decision in regard to the protection of the subject matter. The Applicant is suitable and competent to raise the child and she has established that she can provide material, psychological and emotional needs for the child. The period she has been in temporary custody of the minor, has seen the minor progress and she has grown to love and appreciate the Applicant as a mother. The court finds the applicant to be competent to protect and provide for the child. The child has been enrolled in nursery school which is a good gesture of parental care.

10. The Originating Summons application dated 12th October, 2015 is therefore found to be meritorious and the court orders as follows:

- (a) That the applicant is hereby allowed to adopt baby M W who shall then be known as M L G.
- (b) That the child shall be presumed to have been born in Narok, Kenya and her date of birth shall be 18th April, 2011.
- (c) That M N U, the Applicant's sister is hereby appointed legal guardian of the child in the event the Applicant is incapacitated.
- (d) That the Registrar General is directed to enter the order in the Adoption Register.
- (e) That the guardian ad litem is hereby discharged.

DATED AND DELIVERED IN OPEN COURT THIS 4TH DAY OF AUGUST, 2017.

J.N. ONYIEGO

JUDGE

In the presence of;

.....Advocate for the applicant