



**REPUBLIC OF KENYA**  
**IN THE HIGH COURT AT NAIROBI**  
**MILIMANI**  
**ADOPTION CAUSE NO. 79 OF 2015**  
**IN THE MATTER OF THE CHILDREN'S ACT, 2001**  
**AND**  
**IN THE MATTER OF ADOPTION OF**  
**BABY P W.....CHILD**  
**BY**  
**N C A.....APPLICANT**

**JUDGMENT**

N C A 'the Applicant herein' by way of Originating Summons Application and an Affidavit in Supported dated 23<sup>rd</sup> March 2015 prayed for Orders that she be allowed to adopt Baby Purity W the Child herein', that R O O be appointed guardian ad-litem, that the Director of Children Services be ordered to conduct a home visit and investigate her fitness to adopt the Child and that upon making of the adoption order, the Child be declared a citizen of Kenya and be known as I B R.

The Applicant is an adult citizen of Kenya. She is single and has no biological children of her own. She is a Christian and she lives in [particulars withheld]. She is a secretary at [particulars withheld] Refrigeration Enterprises. The Applicant desires to adopt so that she can start and so that she can give a deserving Child a home. She has been in care and custody of the Child since 26<sup>th</sup> August 2010 when the Child was placed in her care by Kenya Children's Home Adoption Society.

Baby P W; "the Child herein" is a female Child aged 11 years, presumed to have been born on 12<sup>th</sup> April 2006 at an unknown place. She was found abandoned at [particulars withheld] lodging, Kamkunji area as confirmed by a letter from Kamkunji Police Station dated 12<sup>th</sup> June 2006. The matter was reported to Kamkunji Police Station and recorded vide OB No. [particulars withheld]. The Child was then placed at Kenya Christian Homes (Thomas Barnado House) for care and protection. She was admitted as the said Home on 30<sup>th</sup> May 2007 as evidenced by a copy of the admission form attached. She was later committed at the Home as a Child in need of care by the Children's Court, Nairobi on 25<sup>th</sup> July 2007 vide **Care and Protection Case No. 119 of 2007** as shown by a copy of the Court's committal order.

Since her committal, Kamkunji Police Station asserted; in their letter dated 1<sup>st</sup> March 2007 that no one had gone to claim the Child and that the search for the Child's family has not borne any fruits. The Child was declared free for adoption by the Kenya Children's Home Adoption Society's Case Committee

sitting of 15<sup>th</sup> August 2017 and a freeing certificate of serial no. [particulars withheld] was issued. The Child remained in the Home until she was placed in the custody of the Applicant for the mandatory bonding period.

R O O the proposed guardian ad-litem filed his consent to act as the guardian ad-litem for the purposes of this proposed adoption on 23<sup>rd</sup> March 2015. He was so appointed by the Court on 17<sup>th</sup> July 2015 and ordered to investigate the Applicant's fitness to adopt and file a Report. He filed his Report on 14<sup>th</sup> June 2016 in which he stated that the Applicant had bonded well with the Child and that she has the capacity to adopt the Child herein. He noted that the Child was enrolled at [particulars withheld] Primary School where she was in class 5 and she had fitted very well the rest of the children. He recommended that the adoption be allowed as it will be in the best interests of the Child.

The Kenya Children's Home Adoption Society also filed their Report in respect of this adoption on 28<sup>th</sup> April 2015. They submitted that the Applicant's social, moral and spiritual standing is satisfactory. They also confirmed that the Applicant had a clean bill of health and that she had no criminal record. Further, they confirmed that the Applicant has met all the legal requirements to adopt under the Children's Act, 2001. From their observations, they noted that the Applicant and the Child had bonded quite well and that the Child was being well taken care of by the Applicant. They also noted that the Applicant's Home was favorable for the Child to grow in and she had the financial means of taking care of the needs of the Child. They recommended the Adoption without any reservations.

The Department of Children also filed their Report pursuant to the Court order dated 17<sup>th</sup> July 2015. From the observations made during their home study visit, they stated that the Applicant has adequately provided for the Child and that she has proven capable of taking on parental responsibility. They also confirmed that the Applicant was of good criminal record and that she is socially and economically able to take care of the Child. Further, it was noted that the Applicant had fulfilled all the requisite requirements for a local adoption under the Children's Act, 2001 and that she so qualify to adopt the Child herein.

### **DETERMINATION**

This is a local adoption wherein the Applicant, an adult citizen of Kenya seeks to adopt the Child herein. The Court has evaluated the facts of this local adoption and finds the Applicant to be capable of taking care of a Child. The Applicant has been duly assessed and found to be capable of adopting the Child. Further from the evidence presented, she has met all the prerequisites for a local adoption under **the Children's Act, 2001**. The consents of the biological parents of the child have been dispensed pursuant to **Section 159 of the Children's Act, 2001** with since the child was abandoned and her biological parents could not be traced to give their consent.

This Court is satisfied that the Applicant is qualified and able to take care of the child as submitted in the Reports filed. On the basis of a careful examination of the documents presented before this Court 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 Applicant. Hence, the Applicant, N C A is hereby allowed to adopt B P W. Henceforth, the child shall be known as I B R. She shall be presumed to be a citizen of Kenya by birth born on 12<sup>th</sup> April 2006 within Nairobi County. J O and R A; Applicant's brother and sister in law shall be the legal guardian of the Child should any 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, SIGNED AND DELIVERED IN OPEN COURT AT NAIROBI THIS 29<sup>TH</sup> DAY OF SEPTEMBER, 2017.**

**M. W. MUIGAI**

**JUDGE**