



REPUBLIC OF KENYA
IN THE HIGH COURT A NAIROBI
MILIMANI
ADOPTION CAUSE NO. 66 OF 2016
IN THE MATTER OF THE CHILDREN'S ACT, 2001
AND
IN THE MATTER OF THE ADOPTION OF
BABY C a.k.a C M K.....CHILD
BY
J K K.....1ST APPLICANT
J M J K.....2ND APPLICANT
JUDGMENT

The Applicants herein by way of an Originating Summons Application and an Affidavit in support dated 12th May 2016 sought orders to adopt Baby C a.k.a Caleb M K (hereinafter referred to as 'the Child'), that upon grant of the adoption order the Child be known as C M K and that he be declared a Kenyan citizen, the S M K and F M L be appointed as legal guardians and that the Register General be ordered to enter the adoption order in the Adoption Register.

The Applicants herein are adult citizens of Kenya. They reside in Ruai, Nairobi County. They are a couple; married on 20th October 2007 as evidenced by their marriage certificate of serial no. [particulars withheld]. The 1st Applicant is a businessman and the 2nd Applicant is a Nurse. They have been blessed with one biological child born on 22nd May 2009 currently in class 2 at [particulars withheld] Academy. They are Christians and have been in custody and care of the child since 1st September 2015.

Baby C the Child herein is a male child. He is 5 years old and is presumed to be born on 20th December 2012. He was found abandoned outside the Langas Children Department Offices located within Langas Health Centre, Eldoret. He was rescued and taken to Langas Police Station. The matter was recorded vide OB No. [particulars withheld] as confirmed by the letter from an Officer-in-charge, Langas Police Station dated 16th January 2015. The Child was later admitted at Thomas Barnado House for care and protection on 20th December 2014 as evidenced the admission form attached. He was then committed at the said Home by the Children's Court, Eldoret on 18th December 2014 vide **care and protection case no. 69 of 2014** as evidenced by a copy of the Court's committal order. The Child stayed at the Home until he was placed in the care and custody of the Applicants. A letter from Langas Police Station dated 10th June

2015 confirmed that since the Child was abandoned, no one had gone to the claim him. The Child was freed for adoption by the Change Trust Adoption Society case committee on 28th July 2015 and a freeing certificate of serial no. [particulars withheld] issued pursuant to **Section 156 (1) of the Children's Act, 2001.**

D M M was appointed as the guardian ad litem by a Court order of 8th September 2016 and required to prepare a report on the suitability of the Applicants to adopt the child herein. In his report dated 21st October 2016, he stated from his observation that the child exhibited a sense of attachment and bonding with the prospective adoptive parents. In addition, he noted that there is also mutual love and acceptance. He further stated that the Applicants had well provided for the Child and they are ready and willing to take care of the Child and thus, he recommended the adoption.

Kenya Children's Home Adoption Society's Report was filed on 27th July 2016. It was submitted that the Applicants and their biological child of 6 years had all bonded well with the Child herein and the extended family was aware of the proposed adoption and they had accepted the Child. It was also submitted that the Applicants are socially, emotionally and financially capable of raising the Child, that they are of a clean bill of health and had no criminal record as evidenced by their certificates of good conduct of serial nos. [particulars withheld] and [particulars withheld] respectively. Further, from the observations made, it was stated that the Applicants have proven to be capable of providing for the Child without any strain and that they fully understand the implications of adoption and are ready and willing to abide by them. They recommended the Adoption as it will be in the best interests of the Child.

The Director of Children's Services Report was also filed on 27th April 2017 pursuant to the Court order dated 19th September 2016. In the report, it was stated that the Applicants are financially, socially and emotionally stable of taking care of the Minor. The home environment was also established to be habitable for the child to live in. It was further observed that the Applicants have bonded well with the Child since he was placed with them for the mandatory bonding period. The County Coordinator for Children's Services recommended the adoption without any reservations.

DETERMINATION

From the foregoing, this is a local adoption wherein the Applicants have been duly assessed and found to be capable of adopting the Child herein. They have met all the prerequisites for a local adoption under **the Children's Act, 2001.** They had been in the continuous care and control of the Child as required by **Section 157 of the Act** and they are within the age limit prescribed under **section 158 of the same Act.** Moreover, the Child has been free for adoption by Change Trust Adoption Society as evidenced by the freeing certificate filed. In addition to this, the Reports filed in respect of this adoption are favorable and they prove that the Applicants have the social, emotional, physical and financial capacity of taking care of the Child herein. Taking into account the fact that the Child was abandoned, the Court hereby dispenses with the consents of the Child's biological parents pursuant to **Section 159 of the Children's Act, 2001** as they same cannot be obtained.

Accordingly, the Court is satisfied that this adoption is in the best interests of the Child and it is thus hereby ordered that J K K and J M J K are authorized to adopt BABY C a.k.a C M K. Henceforth, the Child shall be known as C M K and he shall be presumed a citizen of Kenya, born on 20th December 2012, Eldoret County. S M K cousin to the 1st Applicant and his wife F M L are hereby appointed as the legal guardians of the Child should any eventuality befall on the Applicants. The Registrar General is hereby ordered to 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 29TH DAY OF SEPTEMBER, 2017.

M.W. MUIGAI

JUDGE

In the presence of: