



**REPUBLIC OF KENYA**  
**IN THE HIGH COURT AT NAIROBI**  
**MILIMANI**  
**ADOPTION CAUSE NO. 56 OF 2016**  
**IN THE MATTER OF THE CHILDREN'S ACT, 2001**  
**AND**  
**IN THE MATTER OF THE ADOPTION OF**  
**BABY GI.....MINOR**  
**BY**  
**M N N.....APPLICANT**  
**JUDGMENT**

The Applicant; by way of Amended Originating Summons Application and a Statement in Support dated 22<sup>nd</sup> August 2016 sought Orders that she be allowed to adopt Baby GI; the Child herein, that LWK be appointed as the guardian *ad-litem* of the Minor for purposes of this Adoption, that the guardian *ad-litem* and the Director of Children Services be Ordered to investigate the Applicant's fitness to adopt and file the requisite reports and that upon making of the adoption order, the Minor be known as GBKR.

The Applicant is an adult Citizen of Kenya. She is Single and was a mother to one son who is now deceased. She is a clerk at the Ministry of Environment and Natural Resources. She has no Children of her own due to medical complications after her Son's demise. She wishes to adopt so as to give back to the society by giving a needy Child a home.

Baby GI the Child herein is a male Child of 9 years presumed to have been born on 1<sup>st</sup> August 2008 in Nairobi County. He was abandoned along Outering Road in Buruburu, Nairobi County. The matter was reported at Buruburu Police Station and recorded vide OB No. [particulars withheld] as confirmed by a copy of the letter from the Police Station. The Child was admitted at Imani Children's Home on 1<sup>st</sup> August 2009 and later committed to the said Home as a Child in need of care and protection by the Children's Court at Nairobi vide **Care and Protection Case No. 301 of 2010** as shown by a copy of the Court's committal order attached. Since the committal, it was confirmed by Buruburu Police station in their letter dated 20<sup>th</sup> March 2014 that since the matter was reported, no one went to claim the Child and that efforts to trace the Child's family have been futile. The Child remained in the Home until 28<sup>th</sup> April 2014 when he was placed in the care and custody of the Applicant for the mandatory bonding period. Baby Gabriel Imani was declared free for adoption KKPI Adoption Society's case committee sitting of 29<sup>th</sup> March 2014 and a freeing certificate of serial no. 497 was issued.

LWK was appointed as the guardian ad-litem for purposes of this adoption on 26<sup>th</sup> October 2016 and directed to file her suitability Report in respect to this Adoption. Accordingly, she filed her Report on 15<sup>th</sup> June 2017 wherein she noted that the proposed adoption is in the best interest of the child. From observation, she submitted that the Applicant was indeed capable of taking on parental responsibility as she had bonded with the Child and was ready and willing to care for him as her own. She also confirmed that the Applicant was of good health and that she had a good criminal record.

KKPI Adoption Society filed their Report on 28th July 2016 based on a Home Study and interview conducted at the Applicant's Home. They submitted that the Applicant was socially, financially and physical stable and that she was a mother of one and thus capable of raising the Child herein.

They also noted that the Applicant's home was suitable for the Child to grow in and that the Applicant had well provided for the Child's basic needs. From their observations, they also noted that the Applicant and the Child had bonded well and the Child regarded the Applicant as her mother. Taking into account the fact that the Applicant is a sole female applicant seeking to adopt a male Child, they submitted that the special circumstances in support of this adoption were that the Applicant was the only person willing to adopt the Child who had been in the Home for 6 years and thus prayed that the Adoption be allowed.

The Director of Children also filed their Report; pursuant to the Court order dated 3<sup>rd</sup> February 2013. From their observations made during a home visit conducted by their Officer, they stated that the Applicant had adequately provided for the Child and enrolled him in Class 2 at [particulars withheld] where he was said to be performing well. They confirmed that the Applicant was of a good criminal record as evidenced by her certificate of good conduct and that she was financially, socially and emotionally capable to take care of the Child. They also noted a good bond between the Applicant, the Minor and his prospective adoptive brother and thus recommended the Adoption.

### **DETERMINATION**

This Court has evaluated the facts of this local adoption. It is evident that the Applicant has fulfilled all the legal requirements relative to the adoption of the child in light of **Section 156(1) of the Children's Act, 2001**. All the necessary Reports required for this Adoption have been filed and they are favorable. The consents of the biological parents of the child are hereby dispensed pursuant to **Section 159 of the Children's Act, 2001** with since the child was abandoned at birth, and her biological parents could not be traced to give their consent.

In light of Section 158(2) (b) of the Children's Act, 2001 which provides:

***“...An adoption order shall not be made in favour of the following persons unless the court is satisfied that there are special circumstances that justify the making of an adoption order***

***(a) ...***

***(b) A sole female applicant in respect of a male child;***

***(c) ...***

***(d) ...”***

This Court is satisfied by the special circumstances espoused by the Reports filed being that; the Applicant had a biological son born in 1988 who is now deceased, that the Minor was abandoned and that the Applicant is ready and willing to adopt him and provide him with a home. Moreover, the Minor has bonded with the Applicant and the Reports favor the adoption.

Accordingly, this Court has satisfied itself that the Applicant is qualified and able to take care of the child as submitted in the Reports filed. It was evident that in the period that the Applicant had had the custody of the child, the child bonded well with her and considered her to be his mother. From the foregoing and

in light of the special circumstances alluded to, this Court is satisfied that it would be in the best interest of the child to be adopted by the Applicant. Hence, this Court orders that; the Applicant MNN is hereby allowed to adopt BABY GI. Henceforth, the child shall be known as GBNR and he shall be presumed to be a citizen of Kenya by birth born on 1<sup>st</sup> August 2008 in Nairobi County. EWK; friend to the Applicant, shall be the legal guardian of the child should such 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 29<sup>TH</sup> DAY OF SEPTEMBER, 2017.**

**M. W. MUIGAI**

**JUDGE**