



REPUBLIC OF KENYA
IN THE HIGH COURT AT NAIROBI
MILIMANI
ADOPTION CAUSE NO. 89 OF 2017
IN THE MATTER OF THE CHILDREN'S ACT, 2001
AND
IN THE MATTER OF AN APPLICATION FOR THE ADOPTION OF
BABY H E.....CHILD
BY
R M M.....APPLICANT
JUDGMENT

By way of an Originating Summons Application and an Affidavit in Support dated 15th June 2017, the Applicant herein sought Orders to adopt Baby H E (hereinafter referred to as 'Child'), that the Child be named I A W M, that J K M and B W K be appointed as the legal guardians of the Child and that the Registrar General be ordered to make the appropriate entries in the Adoption Register.

The Applicant is a Citizen of Kenya aged 47 years. She is single and has no biological children of her own. She resides in Kileleshwa, Nairobi County and works as the Head of [particulars withheld] Bank. She desires to adopt so as to give back to the society by giving a child a family.

Baby H E; the Child herein is a female Child. She is presumed to have been born on 21st May 2016 as shown by her certificate of birth of serial no. [particulars withheld] in Mlolongo, Machokos County. She was found abandoned at Mlolongo area. She was rescued by a good samaritan. The matter was reported at Mlolongo Police Station and booked vide **OB No. [particulars withheld]** as confirmed by a copy of letter from the Station dated 23rd May 2015. She was admitted to Mahali Pa Maisha Infant Resue Centre on the same day. She was then committed to the said Home by the Children's Court, Mavoko Law Court; on 9th December 2016 vide Care and Protection Case No. 16 of 2016. A letter from Mlolongo Police Station dated 6th December 2016 confirmed that since the matter was reported, no one went to claim the Child. Mahali Pa Maisha Infant Resue Centre submitted that efforts to trace the biological parents of the Child have been successful and that the Child still remains unclaimed. The Child was declared free for Adoption by Little Angels Network on 31st January 2017 and a freeing certificate of serial no. [particulars withheld] was issued pursuant to **Section 156(1) of the Children's Act, 2001 and the Adoption Regulations, 2005.**

D R K, the guardian *ad-litem* filed her Affidavit of Consent to Act as the guardian ad-litem for the

purposes of this adoption on 19th June 2017 and was appointed as such by the Court on 8th September 2017. She filed her Report on 20th September 2017 wherein she submitted that the Child has been warmly welcomed in the Applicant's family and that she has the requisite capacity to adopt and take care of the Child. She further submitted that to the best of her knowledge, the Applicant is of a clean bill of health and that she has a good criminal record. She observed that the Applicant and the Child has bonded well and thus recommended the Adoption.

The Department of Children Services also filed their Report pursuant to the Court order dated 14th September 2017. From observations made by their Representative during their home study visit, it was submitted that the Applicant had interacted well with the Child and she looked happy and healthy. It was also submitted that the Applicant's home was conducive for the Child to grow up in and that the Applicant had the capacity to provide for her. They also confirmed that the Applicant was in good health and that she has no criminal record as shown by her certificate of good conduct of serial no. [particulars withheld]. It was confirmed that she had met all the requisite requirements for a local adoption and thus recommended the adoption without any reservation.

Little Angels Network Adoption Society filed their Report on 30th August 2017. They confirmed that the Applicant was socially and financially capable of taking care of the Child and that she was of good moral standing and good health. They further submitted that she had met the requirements to adopt under **the Children's Act, 2001**. From their observation and assessment, since the child was released to the Applicant for bonding and fostering on 13th February, 2017 they noted a good bond between the Applicant and the Child and she looked healthy and happy and thus the proposed adoption would be in her best interests.

DETERMINATION

From the facts, this is a local adoption wherein the Applicant, an adult citizen of Kenya seeks to adopt the Child herein. She has been duly assessed as evidenced by the Reports filed and found capable of adopting the Child. Further from the documents presented, she has met all the prerequisites for a local adoption under **Section 156(1) of the Children's Act, 2001**. The consents of the biological parents of the child are hereby dispensed with pursuant to **Section 159 of the Children's Act, 2001** with since the child is an abandoned Child and her family cannot be traced. Accordingly, this Court is satisfied that the Applicant has the capacity of taking care of the Child. On the basis of careful examination of the documents presented before this Court as well as the observations made, 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, R M M is hereby granted orders to adopt BABY H E. Henceforth, the child shall be known as E W M. She is presumed to be a citizen of Kenya by birth; born on 21st May 2016 in Machakos County. J K M and B W K; 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 28TH DAY OF SEPTEMBER, 2017.

M.W.MUIGAI

JUDGE

IN THE PRESENCE OF:

Mrs. Muriuki holding brief Mrs. Anne Mbugua for Applicant