



REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA AT KERICHO
ADOPTION CAUSE NO.11 OF 2015
IN THE MATTER OF THE CHILDREN ACT (ACT NO.8 OF 2001)
AND
IN THE MATTER OF BABY N S *alias* N K (CHILD)

JUDGMENT

1. The applicant, M C Y has, through her application dated 9th December 2015, sought to be authorized to adopt the male child currently identified and known as **N S *alias* N K**.
2. The applicant is a sole female adult born in 1966, and she is now 51 years of age. She has limited formal education. Her educational level is class 6, where she dropped out in 1975 due to what is described as frequent bouts of malaria. She has been a farmer since then, initially with her parents and afterwards on her own account after her parents gave her a share of her inheritance.
3. She resides in her own home in [particulars withheld] village, Kericho, where she has lived since her birth. She lives with her sister, S C. She has never been married. She earns her living from tea farming, sale of milk, avocados and potatoes.
4. The child in respect of whom this application relates is N S. He was presumably born on 2nd October 2010. He was found abandoned in a plantation in [particulars withheld] village at about 8.00 p.m by members of the public. The members of the public reported the matter at Mumias Police Station and it was recorded in OB No. xxxx as indicated in the letter from xxxx Police Station dated 27th April 2015. The child was placed at the xxxx Kids Centre on 22nd October 2011 and committed to the care of the home on 21st December 2011 through Protection and Care Case No.26 of 2011. The police indicate that no-one has ever come to claim him and he was declared free for adoption by the Kenya children's Homes Adoption society on 16th June 2015 and a freeing certificate serial number xxxx issued in accordance with section 156 (1) of the Children Act 2001.
5. On 8th September 2016, the court appointed E K M as Guardian *ad Litem* in respect of the child. The court also directed the Director, Children's Services, to investigate and file a report with respect to the fitness or otherwise of the applicant to adopt the child.
6. The report of the Guardian *ad Litem* was filed on 24th March 2017. The Guardian *ad Litem* notes that he has visited the applicant and the child and observed that the child is well taken care of, is in good health and has bonded well with the applicant's family. In his view, it would be in the best interests of the child if the applicant is authorized to adopt him.

7. The sub-county Children Officer, Kericho, filed a report dated 7th November 2016. He made a home visit to the applicant and the child on 4th November 2016. He notes that the child has bonded well with the applicant. Further, that the applicant has a house on two and a half acres of land, from which she earns her living. He states that the applicant is fit to adopt the child.

8. I have read and considered the documents filed in court in support of this application. I note that the applicant is at least 21 years older than the child, and is 51 years of age. She is therefore within the age threshold in respect of adoptions.

9. I further note that the applicant is a sole female applicant seeking to adopt a male child. However, as she is the only person willing to adopt the child, then she falls within the guidelines issued by the National Adoption Committee on 13th January 2010. She can therefore be allowed to adopt the male child.

10. Accordingly, I am satisfied that she is fit to adopt the child currently identified and known as N S. More importantly, it is in the best interests of the child, as observed both by the Children Officer and the Guardian *ad Litem*, that she be allowed to adopt him.

11. I therefore grant orders that the applicant be and is hereby allowed to adopt the male child currently identified and known as N S. The child shall be known as N K and is hereby declared a citizen of Kenya. His date of birth shall be 2nd October 2010.

12. The Registrar General is hereby directed to make the appropriate entries in the Adopted Children's Register. The Registrar of Births and Deaths shall issue a birth certificate in respect of the child.

13. S C, the applicant's sister, is hereby appointed the child's legal guardian should any misfortune befall the applicant.

14. The Guardian *ad Litem* is hereby discharged.

15. It is so ordered.

Dated, delivered and signed at Kericho this 22nd day of September 2017.

MUMBI NGUGI

JUDGE