



REPUBLIC OF KENYA
IN THE HIGH COURT AT NAIROBI MILIMAN
FAMILY DIVISION
ADOPTION CAUSE NO. 132 OF 2016
IN THE MATTER OF THE CHILDREN'S ACT, 2001
AND
IN THE MATTER OF THE ADOPTION OF
BABY L A.....CHILD
BY
E C J.....1ST APPLICANT
C A O.....2ND APPLICANT
JUDGMENT

The Applicants by way of Originating Summons Application and an Affidavit in Support thereof sought orders that they be allowed to adopt Baby L A (herein after referred to as 'Child'), that upon grant of the adoption order, the Child be named N D A J, that the Child be presumed a Citizen of Kenya by birth and that the Registrar General do make the appropriate entries in the Children Register.

The Applicants are adult citizens of Kenya as shown by their copies of Identification cards. They got married on 18th August, 2005 as evidenced by their certificate of marriage of serial no. *[Particulars withheld]*. They have no biological children of their own but the union is blessed with one Child S.A.A.J who was adopted on 23rd January 2015. They are Christians and they reside in Nairobi. The 1st Applicant is a private consultant and the 2nd Applicant works *[particulars withheld]*.

The Child in this matter Baby Leah Abijah is a female Child presumed to have been born in Kitengela on 6th March 2014. She was found abandoned within Kiengela area. She was rescued and the matter was reported at Kitengela Police Station and recorded vide OB No. 82/7/3/2014 as confirmed by their letter dated 8th September 2014. The Child was admitted at Mahali Pa Maisha as a Child in need of care and protection on 7th March 2014 as shown by a copy of the Home's admission letter. She was later committed to the said Home as a Child in need of care and protection by the Children's Court in Mavoko on 16th April 2014 vide **Protection and Care Case No. 8 of 2014**. This is evidenced by a copy of the Court's Committal order. Since the Child's committal to Mahali Pa Maisha, it has been asserted by Kitengela Police Station that no one went to claim the Child. She was placed in the care, control and custody of the Applicants on 22nd October 2014. The Child was freed for adoption 8th October 2014 by

the Kenya Children's Home Adoption Society and a freeing certificate of serial no. 1151 was issued pursuant to section 156(1) of the Children's Act 2001.

N M M, the proposed guardian *ad-litem* filed her consent to act as such on 14th October 2016. She was appointed as the guardian *ad-litem* for the purposes of this adoption on 8th December 2016 and ordered to investigate the fitness of the Applicants to adopt and file a Report. She filed her Report on 4th October, 2017 wherein she submitted that the Child had bonded well with the Applicants and that she was comfortable in the home and was well taken care of. She stated that the Applicants had a good moral standing and that they were socially and financially capable of providing for the Child. She recommended the adoption.

Kenya Children's Home Adoption Society filed their Report on 7th December 2016. It submitted that the Applicants home was conducive for the Child to grow in. They also submitted that the Applicants were financially stable to provide for the Child and there were equally socially stable. It was confirmed that the Applicants had a clean bill of health and had no criminal record.

They further confirmed that the Applicants were assessed and found capable of adopting the Child and that they had met all the legal requirements to adopt a Child. They recommended the adopting as it would be in the best interests of the Child.

The Department of Children Services also filed their Report on pursuant to a Court order dated 9th February 2017. They confirmed that the Applicants had a good moral standing and that they were socially capable of taking care of the Child. They stated that the Applicant's home environment was suitable for the Child to grow in and that they were capable of providing for the Child. From their observations, they submitted that the Child and the Applicants had bonded well and that the Child looked happy and healthy. They recommended the Adoption without any reservations.

DETERMINATION

This is a local Adoption where both Applicants seek to adopt the Child herein. All the statutory reports that have been filed in respect to this proposed adoption are favorable to the Adoption. The Applicants have fulfilled all the legal requirements for local adoption under the **Children's Act, 2001**. They have been duly assessed and found capable of adopting the Child herein.

The consent of the biological parents of the Child is hereby dispensed with pursuant to **Section 159(a) of the Act** as the same cannot be obtained. The Court also dispenses with the consent of the Applicants daughter as she is a minor.

On the basis of a careful examination of the documents presented before this Court as well as the observations made, this Court is satisfied that it would be in the best interest of the child to be adopted by the Applicants. Accordingly, the Applicants E C J and C A O are hereby authorized to adopt BABY L A. Henceforth the Child shall be known as N D A J. She shall be presumed a citizen of Kenya by birth born on 6th March 2014 in Kitengela, Nairobi. J A O, sister to the 2nd Applicant, and her husband M S M are hereby appointed legal guardians of the Child should any eventuality befall on the Applicants. 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 AND SIGNED IN OPEN COURT AT NAIROBI THIS 30TH DAY OF OCTOBER, 2017.

M.W MUIGAI

JUDGE