



REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA AT NAIROBI
MILIMANI LAW COURTS
FAMILY DIVISION
ADOPTION CAUSE NO.199 OF 2014 (O.S)
IN THE MATTER OF THE CHILDREN'S ACT NO. 8 OF 2001
AND
IN THE MATTER OF BABY J.A. alias J.R.W. (CHILD)
AND
IN THE MATTER OF AN APPLICATION FOR ADOPTION BY
M W K
JUDGMENT

1. The applicant is a 37 year old single lady, a Kenyan by nationality, working as a social worker/programme officer with *[particulars withheld]* Organization and *[particulars withheld]* International. She filed this Originating Summons dated 17th July 2014 seeking to be allowed to adopt baby J.A., a female child who is estimated to have been born on 1st June 2012. The child was reported to have been found abandoned in the wee hours of the morning on 13th September 2012 near a residential plot neighbouring the PCEA Church Kienjeini in Mwanda area Mathira East District. She was rescued by good samaritans who reported the incident at Karatina Police Station where it was recorded under OB No.26/13/09/2012. The baby was admitted at New Life Home Trust-Nyeri on the same day and was formally committed to the said Home by the Children's Court at Karatina on 2nd October 2012 vide Protection and Care Case No. 6 of 2012. Karatina Police in their final report dated 19th March 2013 stated that their investigations and efforts to trace the child's biological parents or relatives had been futile and neither had anyone come forth claiming the child. New Life Home Trust also reported that no one had come forth to claim the child during her stay at the Home. The child was declared free for adoption as per **section 156** of the **Children Act No. 8 of 2001** by Buckner Kenya Adoption Services on 12th April 2013 and freeing certificate No.0005 issued. She was placed under the care of the applicant on 16th April 2013 for mandatory bonding prior to adoption and has been under her continuous care to date.

2. This Court on 21st January 2015 appointed L J K as guardian ad *litem* and ordered that she together with the Director of Children Services file their requisite reports. Both reports were duly filed recommending that the applicant be allowed to adopt the child as she is socially, emotionally and financially stable and that the child has bonded well with her. The applicant also enjoys the full support

of her family in her decision to adopt.

3. This Court is of the opinion that it is in the best interests of the child to be adopted by the applicant. The applicant has demonstrated her ability to provide a conducive home and family environment to enable the child to grow and develop. She shall assume all parental rights and duties of the biological parents of the child once adopted and shall treat the child as if she was born to her. She has been made aware that once the adoption order is made, it shall be final and binding during the lifetime of the child, and that the child shall have the right to inherit her property. The applicant shall not be able to give up the child owing to any subsequent unforeseen behaviour or other changes in the child. This Court dispenses with the consent of the child's biological parents as the child was found abandoned.

4. Having been satisfied that all the legal requirements for a local adoption under the **Children Act No. 8 of 2001** have been met, the following orders shall issue:-

- a. that the applicant M W K is hereby allowed to adopt baby J.A. who shall henceforth be known as J R W;
- b. the child's date of birth shall be 1st June 2012, and shall be presumed Kenyan by birth having been abandoned near PCEA Church Kienjeini in Mwanda area Mathira East District within Kenya;
- c. that P G K and N W M, the applicant's brother and sister-in-law respectively, are hereby appointed as legal guardians to the child in the event of death or incapacity of the applicant before she is of full age and fully self-reliant;
- d. the Registrar-General is directed to enter this adoption in the Adopted Children Register;
- e. the Director of Immigration Services is hereby ordered to issue J R W with a Kenyan Passport; and
- f. the guardian *ad litem* is hereby discharged

DATED at NAIROBI this 28TH JANUARY 2016.

A.O. MUCHELULE

JUDGE

DELIVERED at NAIROBI this 29TH JANUARY 2016

W. MUSYOKA

JUDGE