



REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA AT NAIROBI
MILIMANI LAW COURTS
FAMILY DIVISION
ADOPTION CAUSE NO.227 OF 2014 (O.S)

IN THE MATTER OF THE CHILDREN'S ACT NO. 8 OF 2001

AND

IN THE MATTER OF BABY S.A. alias S.M.M. (CHILD)

AND

IN THE MATTER OF AN APPLICATION FOR ADOPTION BY

J M M.....1ST APPLICANT

K M.....2ND APPLICANT

JUDGMENT

1. The applicants are a married Kenyan couple with no biological children. They filed originating summons dated 24th September 2014 seeking to be allowed to adopt baby S.A. alias S.M.M. who is a male child estimated to have been born on 15/06/2011. The 1st applicant is a gardener while the 2nd applicant is a business lady. Baby S.A. was found abandoned along the Nairobi-Naivasha highway at Kagia farm in Rironi Limuru on 7/11/2011. He was rescued by a good samaritan who reported the incident at Tigoni Police Station where it was recorded as OB No.8/7/11/2011. On 9/11/2011 the child was admitted at the Angel Centre for Abandoned Children and was later committed to the said Centre on 9/05/2012 by the Children's Court at Limuru vide Protection and Care Case No.46 of 2012. The Police in their final letter dated 5/04/2013 reported that no one had come forth to claim the child and neither had they succeeded in tracing the child's biological parents or relatives. Angel Centre for Abandoned Children also reported that no one had come forth to claim the child during his stay at the home. The child was declared free for adoption as per **section 156** of the **Children Act No. 8 of 2001** by Kenyans to Kenyans Peace Initiative (KKPI) Adoption Society on 31/07/2013 and freeing certificate No. 340 issued. He was placed under the care and control of the applicants on 28/08/2014 for mandatory bonding prior to adoption. He has been under the applicants' continuous care to date.

2. MWM was appointed as guardian ad *litem* by this court on 5/02/2015. The court ordered that he together with the Director of Children Services do file their requisite reports. Both reports were duly filed recommending that the applicants be allowed to adopt the child as both are socially, emotionally and financially stable and that the child has bonded well with them as well as with the applicants' other child,

C, subject of adoption cause 228 of 2014.

3. This court is of the opinion that it is in the best interests of the child to be adopted by the applicants. The applicants have demonstrated their ability to provide a conducive home and family environment to enable the child grow and develop. They shall assume all parental rights and duties of the biological parents of the child once adopted and shall treat the child as if he was born to them. They have 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 their property. The applicants 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 applicants J M M and K M are hereby allowed to adopt baby S.A. who shall henceforth be known as S M M;
- b. the child's date of birth shall be 15/06/2011, and shall be presumed Kenyan by birth having been abandoned along the Nairobi-Naivasha highway at Kagia farm in Rironi Limuru within Kenya;
- c. that J M M and D K M are hereby appointed as legal guardians to the child in the event of death or incapacity of the applicants before he 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 S M M 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