



REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA AT NAIROBI
ADOPTION CAUSE NO. 217 OF 2014 (OS)
IN THE MATTER OF THE CHILDREN'S ACT NO. 8 OF 2001
IN THE MATTER OF ADOPTION OF BABY I
BY
J M M and S S W (APPLICANTS)

JUDGMENT

1. The Applicants J M M and S S W, are in monogamous cohabitation since 2002. They solemnized their marriage at the Registrar's office on 20th April 2011 and they were issued with a certificate No. ***[particulars withheld]***. They have no child of their own. They wish to adopt the child known as Baby I, a minor of male sex through the Originating Summons dated 12th September, 2014. They indicate that J M M is a nurse with the Ministry of Health while S S W, is a Lecturer with ***[particulars withheld]*** University. They reside in Thome, Nairobi area and are both Christians subscribing to the Catholic Church.
2. The child, who is the subject of these adoption proceedings, was born to E M on 20th August, 2010, at Kibera Community Health Centre. The child was later referred to Kenyatta National Hospital due to low birth weight and neonatal sepsis where he was admitted together with his mother. The report from the hospital indicates that the mother absconded leaving the child in the ward. The report was booked via OB No. 17/4/11/10 at the Kenyatta National Hospital Police Post. The child remained in the hospital until 3rd February 2011 when he was admitted at the Hope House Babies Home for care and protection the same day. On 21st December 2011 the child was officially committed to the same home by the Senior Resident Magistrate at the Children's Court Nairobi, vide P&C Case No. 395 of 2011.
3. The child was declared free for adoption on 13th January, 2011 by the Kenyan to Kenyan Peace Initiative Adoption Society vide certificate No. 225. He was released into the custody of the Applicants for mandatory foster care pending adoption on 19th January 2011. The Applicants signed a Foster Care Agreement dated the same day. Since then he has been in the continuous custody and care of the Applicants. Prior to the hearing of the adoption application, Kenyan to Kenyan Peace Initiative, prepared and filed a report in court.
4. The Adoption Society, guardian ad litem and the Director of Children's Services have all made home visits and established that the Applicants are financially and emotionally capable of providing for the up

keep and education of the child.

5. The Director of Children’s Services filed a report dated 21st October, 2015 which raises issues in the documentation of the child in this cause. The documents indicate that the child was committed to Hope House Babies Home vide a care order dated on 21st December 2011, while the foster care agreement forms state that the child was placed with the Applicants on 19th January 2011. Further that the child was discharged from Kenyatta National Hospital on 12th January 2011 and admitted to the Home on 3rd February 2011. The report however recommended the adoption for reasons that the child stands to have the opportunities provided by becoming the son of the Applicants rather than growing up in an institution.

6. The guardian ad litem, M/s. M K K also filed a report that was favourable and recommended the adoption of the child by the Applicants. The child was in court during the hearing and appeared to have bonded well with the Applicants. He was jovial and related well with the Applicants.

7. After a careful assessment of the reports filed herein I observe that indeed the documentation of the child was handled in a careless manner. It is however five years down the line and no one has come forward to claim the child. From the observation of the interaction of the Applicants and the child during the hearing, the court saw that they had bonded well and the child appeared to recognise the couple as his parents. Reasons wherefore the court finds that it is in the best interest of the child to be adopted by the Applicants, and allows the prayers sought in the Originating Summons dated 12th September, 2014 and order as follows:

The Applicants, J M M and S S Wasike, are hereby allowed to adopt baby **I** who shall henceforth be known as **P R M**.

- ii. His date of birth shall be presumed to be 20th August 2010. He is presumed to have been born in Kenya and the place of birth shall be Nairobi.
- iii. R T (sister to the female Applicant) is hereby appointed legal guardian of the child in the event that the Applicants die or are incapacitated by ill-health.
- iv. I direct the Registrar General to enter this order in the Adoption Register.
- v. The Director of Immigration is hereby authorised to issue the child with a Kenyan passport.
- vi. The guardian ad litem is hereby discharged.

It is so ordered.

SIGNED DATED and **DELIVERED** in open court this **12th day of February 2016**.

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L. A. ACHODE

JUDGE