



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI

ADOPTION CAUSE NO. 184 OF 2015 (OS)

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

AND

IN THE MATTER OF ADOPTION OF BABY J M

BY

G B C AND J S G (APPLICANTS)

JUDGMENT

1. The Applicants, **G B C** and **J S G**, are of American origin and in a monogamous marriage which was solemnized at the Decatur County of Dekalb in Georgia on 29th December, 2011. They have three biological children. They have brought an Originating Summons dated 20th July, 2015 seeking permission to adopt **Baby J M**, an infant of male sex. **G B C** is a [*particulars withheld*], while **J S G**, is an [*particulars withheld*]. They reside in Nairobi and are both Christians.
2. The child who is the subject of this adoption proceedings was found abandoned at infancy at Kahawa Wendani area in Nairobi on 13th May 2013. He was rescued by a Good Samaritan. The matter was reported at Kahawa Sukari Police Post and an entry made vide OB No. 14/13/5/2013. On 2nd May 2012 the child was admitted to Karibuni Children Centre for care and protection. The child was referred to Ruiru Sub-District Hospital for medical check-up. On 14th May 2013, the child was discharged from the hospital and admitted to New Life Home Trust. The child was officially committed to the same Children's Home by the Chief Magistrate Children's Court Thika, vide P&C Case No. 203/2013. A letter dated 24th July 2014 from Kahawa Sukari Police Post confirms that no one has gone to claim or inquire after the child to date.
3. The child was declared free for adoption on 26th November, 2014 by the Little Angels Network Adoption Society vide certificate No. 001565. He was released into the custody of the Applicants for mandatory foster care pending adoption on 17th April, 2015. Since then he has been in the continuous custody and care of the Applicants. Prior to the hearing of the adoption application, Little Angels Network, an adoption Society prepared and filed a report in court.
4. The Adoption Society and guardian ad litem 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. The guardian ad litem, M/s. Esther M. Keli filed a report that was favourable and

recommended the adoption of the child by the Applicants.

5. The Director of Children's Services who cited the moratorium on foreign adoption by the Cabinet, did not file a report. The court notes however, that the Kenya National Adoption Committee, where the Director of Children Services serves as Secretary, on 18th November, 2014 met and approved the applicants' application to adopt a child in Kenya. The decision of the committee was communicated to the Little Angels Network Adoption Society by the Director of Children Services *vide* minute No.07/11/2014. The decision conveyed was that the committee had found the applicants to be suitable prospective adoptive parents. A certificate of approval was duly issued to them, dated 20th January, 2015, signed by, among others, the Director of Children Services.
6. The United States Central Authority in accordance with Article 5 of the, the Hague Convention on the Protection of Children and Cooperation in Respect of Inter-country Adoption confirmed that the Applicants had been approved by the United States authorities. According to a Communique from the said office dated 25th March, 2015 and annexed to the Originating Summons, a Kenyan adoption would be recognised immediately in United States of America and the United States of America Embassy in Nairobi will have authority to issue the child with a United States of America passport upon presentation of the adoption order. The child will at the same time obtain United States of America citizenship.
7. The proposed adoption also received local approval by the Little Angels Network Adoption Society and by the Adoption Committee meeting held on 18th November 2014 *vide* approval certificate No.000563 dated 20th January, 2015. When the Director Children Services declined to provide a report to the court, an application dated 22nd October, 2015 was brought before the court. Upon consideration and on the basis of the best interest of the child, the court ordered in a ruling dated 18th December 2015 that the report of the Director of Children Services could be dispensed with in the circumstances of this cause.
8. The child was in court during the hearing and appeared to have bonded well with the Applicants. He was jovial and clearly considered the Applicants as his parents. The court notes that he will not only gain parents but will also acquire siblings if the adoption petition is allowed.
9. From the foregoing the court is satisfied that all the legal requirements for an international adoption have been met, and consequently makes the following orders:
 - a. That the Applicants, **G B C** and **J S G** are hereby allowed to adopt Baby **J M**, who shall be hereinafter known as **I B C**.
 - b. His date of birth shall be presumed to be 13th May 2013.
 - c. He is presumed to have been born in Kenya and the place of birth shall be Nairobi. He is therefore presumed to be Kenyan by birth.
 - d. R L G and M T L (Sister and brother in-law of the Applicants) respectively are hereby appointed as the legal guardians of the child, should the Applicants die or become permanently incapacitated before the child attains the age of majority.
 - e. The Registrar-General is directed to enter this adoption order in the Adoption Register;
 - f. The Director of Immigration is hereby authorised to issue the child with a Kenyan passport.

The guardian ad litem is hereby discharged.

It is so ordered.

DATED, SIGNED and DELIVERED at NAIROBI this 12th DAY OF February 2016.

L. A. Achode

JUDGE