



REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA AT NAIROBI
ADOPTION CAUSE NO. 221 OF 2014 (OS)
IN THE MATTER OF THE CHILDREN'S ACT NO. 8 OF 2001
IN THE MATTER OF ADOPTION OF BABY I
BY
S M K AND G W M (APPLICANTS)
JUDGMENT

1. The Applicants S M K and G W M, are in a monogamous cohabitation which was solemnized at the Redeemed Gospel Church in Nairobi on 8th November 1997 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 T.S., a minor of male sex through the Originating Summons dated 18th September, 2014. They indicate that they are a self-employed businessman and business woman respectively. They reside in Old Ngara Estate, Nairobi area and are both Christians subscribing to the Redeem Gospel Church.

2. According to a letter Ref C/PUB/5/5/4/1/013 dated 8th April 2013 from Kitengela Police Station, the child who is the subject of this adoption proceedings was found by one Mary abandoned within Kitengela area along Deliverance road. He was only a day old. Another letter by the District Children Officer, Kajiado North dated 30th April 2013 shows that the baby was rescued by a Good Samaritan on 6th April 2013. The child was taken to Mahali Pa Maisha Children Home on the same day. The report was booked via OB No. 14 of 6/4/013 at the Kitengela Police Station.

3. The child was declared free for adoption on 14th March, 2014 by the Buckner Kenya Adoption Services vide certificate No. ***[particulars withheld]***. He was released into the custody of the Applicants for mandatory foster care pending adoption on 16th March, 2014. Since then he has been in the continuous custody and care of the Applicants. Prior to the hearing of the adoption application, Buckner Kenya Adoption Services 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 also filed a report dated 27th July, 2015 recommending the adoption for reasons that the child stands to gain the opportunities provided by becoming the son of the Applicants and growing up in a home rather than growing up in an institution. The guardian ad litem, Ms. A N N 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. Both Applicants' families support the adoption.

6. More importantly, the orders sought by the Applicants relate to a child. In law, in any matter concerning a child, the best interests of a child is paramount. **Article 53(2)** of the **Constitution** provides the guiding principle on this question as follows:

“A child’s best interests are of paramount importance in every matter concerning the child.”

The other pertinent law is the **Children Act No. 8 of 2001** and in particular **Section 4(3)** thereof.

7. After a careful assessment of the reports filed herein and from the observation of the interaction of the Applicants and the child during the hearing, this court has formed the opinion that it would be in the best interest of the child to be adopted by the Applicants. Reasons wherefore I allow the Originating Summons dated 18th September, 2014. and order as follows:

- i. The Applicants, S M K and G W M, are hereby allowed to adopt baby **T S** who shall henceforth be known as **R K M**.
- ii. His date of birth shall be presumed to be 5th April, 2013. He is presumed to have been born in Kenya and the place of birth shall be Kajiado.
- iii. G G and L G (male Applicant’s sister and her husband) are hereby appointed legal guardians of the child in the event that the Applicants die or are incapacitated by ill-health.
- iv. The Registrar General is hereby directed 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 **30th day** of **March 2016**.

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L. A. ACHODE

JUDGE