



REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA AT NAIROBI
ADOPTION CAUSE NO. 232 OF 2015 (OS)
IN THE MATTER OF THE CHILDREN'S ACT NO. 8 OF 2001
IN THE MATTER OF ADOPTION OF BABY R M
BY
S M M AND C W K (APPLICANTS)

JUDGMENT

1. The Applicants S M M and C W K are in a monogamous marriage which was solemnized at St. Catherine Siena Catholic Church, in Nairobi in September, 2009. They have no child of their own. They wish to adopt the child known as Baby R M a minor of male sex, through the Originating Summons dated 14th September, 2015. They indicate that S M M is a Pilot with [Particulars Withheld] while C W K is a self-employed Consultant. They reside in Lavington and are both Christians.
2. Records indicate that on 24th February, 2014, the child who is the subject of this adoption proceedings was found abandoned at Gatitu Secondary School compound in Gatundu Sub County. The report was booked via OB No. 03/24/02/2014 at the Gatundu Police Station. The child was taken to Gatundu Level IV hospital for medical check-up where he was admitted at the New Born Unit.
3. On 12th August, 2014 the child was referred to New Life Home Trust, for care and protection. On 12th August 2014, the child was officially committed to the same home by the Resident Magistrate at Gatundu court vide P&C Case No. 3/2014. A Letter dated 27th August, 2014 from Gatundu Police Station indicates that the biological parents of the child were not traced, nor did anyone come forward to claim the child.
4. The child was declared free for adoption on 29th October, 2014 by the Kenyans to Kenyans Peace Initiative Adoption Society, vide certificate No. 494. He was released into the custody of the Applicants for mandatory foster care pending adoption on 9th January, 2015. The Applicants also 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, Kenya Children's Home Adoption Society, an adoption society, prepared and filed a report in court.
5. 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.
6. The Director of Children's Services also filed a report dated 13th April, 2016 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, I K also filed a report that was favourable and recommended the adoption of the child by the Applicants.

7. 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.

8. 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 are 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.

9. From the foregoing, 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 prayers sought in the Originating Summons dated 14th September, 2015 and order as follows:

- i. The Applicants, S M M and C W K are hereby allowed to adopt baby **R M** who shall henceforth be known as **M M M**.
- ii. His date of birth shall be presumed to be 23rd February, 2014. He is presumed to have been born in Kenya in accordance with **Article 14 (3)** of the **Constitution**, and the place of birth shall be Gatundu sub county of Kiambu County.
- iii. J M and J M (Male Applicant’s parents) respectively are hereby appointed legal guardians 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 **24th** day of **June 2016**.

L. A. ACHODE

JUDGE