

THE REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI

ADOPTION CAUSE NO. 198 OF 2013

IN THE MATTER OF THE CHILDREN ACT, 2001

AND

IN THE MATTER OF BABY L K (MINOR)

F M G..... APPLICANT

JUDGMENT

F M G, the Applicant seeks by his Application filed on the 6th September 2013 to be allowed by this court to adopt baby L K hereafter referred to as “the child”. The Applicant works as an administrator at *[particulars withheld]*. He is a widower who had been married to the late S N K who passed on on the 11th August 2011. The couple had not been blessed with children of their own due to medical reasons. They had commenced the process of adopting the child before the misfortune.

The child who is the subject of the present adoption proceedings was born on 07th March 2009 at Emuhaya District Hospital. He was given up for adoption at two months through the Kenya Children’s Home Adoption Society by his biological mother by the name L N. It was alleged that the child had been labeled taboo for being born out of an incestuous relationship. The child’s mother deponed in her affidavit sworn on 30th June 2009 that the child’s biological father by the name J had denied paternity. The child was admitted to Thomas Barnado House on the 12th May 2009. The Senior Magistrate Children’s Court sitting at Nairobi, in accordance with **Section 119** of the **Children’s Act**, committed the child to the said Children’s Home on the 14th August 2009 vide **P&C NO. 336/2009**. He was placed in the custody of the Applicant on the 6th February 2010 for mandatory bonding prior to adoption. The child has since then been in the continuous custody and care of the Applicant. The consent of the biological mother of the child to the adoption was obtained on 30th June 2009. The Adoption Society, Kenya Children’s Home issued a certificate declaring the child free for adoption pursuant to Section 156(1) of the **Children’s Act**. The said freeing Certificate is **No. 327** and the same is dated 26th August 2009.

In an Application filed on the 6th September 2013, the Applicant sought among other orders from this court that H W N be appointed as the child’s guardian ad litem, and that the Director of Children’s Services be ordered to investigate the suitability of the Applicant to adopt the child and submit the report. The Applicant sought to have the Court appoint H W N and M W as the child of the legal guardian.

Pursuant to Section 156(1) of the **Children’s Act**, before this matter came up for hearing, the Kenya Children’s Home, the relevant Adoption Agency, prepared and filed in Court a favorable report in respect of the proposed adoption of the baby by the Applicant. Another report in respect of the proposed adoption of the child by the Applicant was prepared by the Director of Children Services, and this report was similarly in favour of the proposed adoption. The guardian ad litem, H W N, also filed the statutory report made under **Section 160(2) of the Children Act** in which he noted that the proposed adoption of the child by the Applicant would be in the best interest of the child.

All the statutory reports that have been filed in respect of the proposed adoption of the child by the Applicant have recommended that this court allow the Applicant to adopt the child. The Court has evaluated the facts of this adoption. This is a local adoption. It is evident that the Applicant has fulfilled all the legal requirements related to the adoption of the child. The consent of the biological mother of the

child has been obtained. This court has satisfied itself that the Applicant is qualified and able to take care of a child. The home visits of the guardian ad litem, The Adoption Society and the Director of Children Services established that the Applicant has the financial and emotional capability to provide for the upkeep and education of the child. This court observed the Applicant with the child in court and it is event that in the period that the Applicant has had the custody of the child, the child has bonded well with him. The child considers the Applicant to be his parent.

On the basis of careful examination of the documents presented before me as well as the observations made therein, this court has formed the opinion that it would be in the best interests of the child to be adopted by the Applicant. Hence this court allows the Applicants application.

The Applicant, F M G is hereby allowed to adopt Baby L G. Henceforth, the child shall be known as M M M and his date of birth will be 07th March 2009. His place of birth shall be Emuhaya District Hospital, he shall be presumed to be a Kenyan by birth. M K M shall be the legal guardian of the child should any eventualities arise. This Court directs the Registrar General to duly enter this order in the Adoption Register. The guardian ad litem is hereby discharged. It is ordered.

READ AND DELIVERED IN OPEN COURT AT NAIROBI THIS 20th DAY OF JUNE, 2016

MARGARET W. MUIGAI

JUDGE

In the presence of;

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