



**REPUBLIC OF KENYA**  
**IN THE HIGH COURT OF KENYA AT NAIROBI**  
**ADOPTION CAUSE NO. 171 OF 2014**  
**IN THE MATTER OF THE CHILDREN'S ACT NO 8 OF 2001**

**AND**

**IN THE MATTER OF BABY R (INFANT)**

**M W G .....APPLICANT**

**JUDGMENT**

M W G, the Applicant through an application dated 1<sup>st</sup> June 2014 seeks to be authorized to adopt Baby R the child in this matter. The Applicant works as a Deputy Registrar at [particulars withheld] and has never been married. She resides in Kikuyu Town. She does not have any children of her own. She wishes to adopt in order to give needy child a family and a permanent home.

The child baby R was abandoned to one J N K at Ziwani by an unknown woman under the pretext that she was answering a call of nature. The woman never came back for the baby and the matter was reported to the Kamukunji Police station and given O.B. No. [particulars withheld] then later reported to a Social worker at the Mama Lucy Hospital. She was admitted at the Mama Ngina Children's Home where she was committed on the 2<sup>nd</sup> July 2012 vide Protection and Care Order No. 222 of 2012. The Kamukunji Police wrote a second letter on the 15<sup>th</sup> October 2012 where they stated that efforts to trace the Baby's Parents or relatives were futile. The baby was placed under the care of the Applicant for purposes of adhering to the adoption process on the 20<sup>th</sup> December 2013.

Baby R was declared free for adoption by the Child Welfare Society of Kenya on the 07<sup>th</sup> November 2013 according to Certificate of Declaring a Child Free for Adoption Serial Number [Particulars withheld].

The Director of Children Services wrote a report pursuant to a Court Order dated 24<sup>th</sup> July 2014. The Director reported that the prospective adoptive mother is well aware of the child's rights to inherit property once adopted and that she's comfortable with it. The Director of Children Services also observed that bonding had occurred between the child and the Applicant and that they enjoy a mother-daughter relationship. The Applicant also has sufficient and steady income to meet all of the child's needs. The Director of Children Services drew the attention of the Court to the validity of the freeing certificate issued by the Child Welfare Society of Kenya. The Organization at the time it declared the child free for adoption had been exempted from registration by the Cabinet Secretary Ministry of Labour Social Security and Services through Legal Notice No. 206 of 2013 dated 25<sup>th</sup> October 2013. Apart from this issue, the Director finds the Applicant to be a suitable adoptive parent.

The Guardian ad litem's report by N W T concluded that the R has received the proper love, parenting,

nurturing and care she needs to get her psycho-socio, emotional and spiritual growth to help her develop holistically. She is confident and happy and has developed very well. The guardian ad litem gave a favourable report with regards to the Applicant.

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 the freeing Certificate given by the child Welfare Society of Kenya is valid.

The **Children's Act, 2010** provides;

**159. (1) The court may dispense with any consent required under paragraph (a), (b), and (c) of subsection (4) of section 158 if it is satisfied that—**

***(a) in the case of the parents or guardian of the child, that he has abandoned, neglected, persistently failed to maintain or persistently ill-treated the child;***

***Provided that:***

***i. abandonment may be presumed if the child appears to have been abandoned at birth or if the person or institution having care and possession of the child has neither seen nor heard from a parent or guardian of the child for a period of at least six months;***

Since the child was abandoned and hasn't been claimed from the institution for a period of over six months the child is free for adoption. 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 has a clean record; she is healthy and financially and socially capable of caring for the child

The Applicant, M W G is hereby allowed to adopt Baby R. Henceforth, the child shall be known as R G W and her date of birth will be 5<sup>th</sup> November 2011. The place of birth shall be Nairobi, Kenya. She will be presumed to be a Kenyan Citizen by birth. A G and M N shall be the legal guardians 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 20<sup>th</sup> DAY OF JUNE, 2016**

**MARGARET W. MUIGAI**

**JUDGE**

In the presence of;

Mary Muigai holding brief for Mr. Ojienda