



REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA AT NAIROBI
MILIMANI LAW COURTS
FAMILY DIVISION
ADOPTION CAUSE NO.181 OF 2015 (O.S)
IN THE MATTER OF THE CHILDREN ACT NO. 8 OF 2001
AND
IN THE MATTER OF BABY M.B. (A CHILD)
AND
IN THE MATTER OF AN APPLICATION FOR ADOPTION BY
F M M.....1ST APPLICANT
J M M.....2ND APPLICANT

JUDGMENT

1. The applicants are aged 52 and 43 years, respectively, and are a Kenyan couple who got married on 19th September 1999. The 1st applicant is a Police Officer by profession while the 2nd applicant is a businesswoman. They have one biological child, J M., who is 17 years. They filed this Originating Summons dated 15th July 2015 seeking to be allowed to adopt baby M.B. who is a male child estimated to have been born on 19th February, 2012.
2. Baby M.B. was on 18th June 2013 found abandoned near New Blessing Academy within Kayole Obama estate by a good samaritan M A. The incident was reported at Kayole Police Station where it was recorded in O.B. No.18/18/06/2013. The Baby was admitted to Imani Children's Home on 19th June 2013 to which he was formally committed on 14th May 2014 by the Children's Court at Nairobi in Protection and Care Case number 92 of 2014. The police in their final letter dated 29th December 2014 reported that no one had come forth to claim the child, and neither had investigations on the whereabouts of the child's parents borne any fruits. Imani Children's Home also reported that no one had come forth to claim the child during his entire stay there. The child was declared free for adoption as per **section 156** of the **Children Act** by Buckner Kenya Adoption Services (a Registered Adoption Society) on 30th January 2015 and a freeing certificate serial No.0053 issued. He was subsequently placed under the care of the applicants on 13th February 2015 for mandatory bonding prior to adoption. He has been under the applicants' continuous care to date.

3. This court on 30th September 2015 appointed P M M as guardian *ad litem* and ordered that he together with the Director of Children Services do file their requisite reports. Both reports were duly filed recommending that the applicants be allowed to adopt the child as both are socially, emotionally and financially stable, and that the child has bonded well with them as well with the applicants' biological child. He knows the applicants as his parents.
4. This court is of the opinion that it is in the best interests of the child to be adopted by the applicants. The applicants have demonstrated their ability to provide a conducive home and family environment to enable the child to grow and develop. They shall assume all parental rights and duties of the biological parents of the child once adopted, and shall treat him as if he was born to them. They have been made aware that once the adoption order is made, it shall be final and binding during the lifetime of the child, and that the child shall have the right to inherit their property. The applicants shall not be able to give up the child owing to any subsequent unforeseen behaviour or other changes in the child. This court dispenses with the consent of the child's biological parents as the child was found abandoned.
5. Having been satisfied that all the legal requirements for a local adoption under the **Children Act** have been met, the following orders shall issue:-
 - a. the applicants F M M and J M M are hereby allowed to adopt baby M.B. who shall henceforth be known as M B M;
 - b. the child's date of birth shall be 19th February 2012 , and shall be presumed Kenyan by birth having been found abandoned at Kayole estate in Nairobi within Kenya;
 - c. J M M1 and J M M2 are hereby appointed as legal guardians to the child in the event of death or incapacity of the applicants before he is of full age and fully self-reliant;
 - d. the Registrar-General is directed to enter this adoption in the Adopted Children Register;
 - e. the Director of Immigration Services is hereby ordered to issue M B M with a Kenyan Passport; and
 - f. the guardian *ad litem* is hereby discharged.

DATED and SIGNED at NAIROBI this 14th day of JUNE 2016.

A.O. MUCHELULE

JUDGE

DELIVERED AND SIGNED this 16th day of JUNE 2016.

W. MUSYOKA

JUDGE