



REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA
AT NAIROBI
ADOPTION CAUSE NO. 2 OF 2015
IN THE MATTER OF THE CHILDREN ACT, 2001
AND
IN THE MATTER OF BABY A Z (MINOR)

L W NAPPLICANT

JUDGMENT

L W N (“the Applicant”) is a sole female applicant. The Applicant has never been married. She is employed as an administrator with the Ministry of *[particulars withheld]* (Export Promotion Council). She has no biological children of her own. Thus, she wishes to adopt a child.

The Applicant seeks by her application to be allowed by this Court to adopt Baby A Z (hereafter “*the child*”). The child who is the subject of the present adoption proceedings was born on 11th June 2013 at Oresi Health Centre within Kisii County. She was abandoned by her biological mother on 12th June 2013 when she absconded from the health centre. The child was thereafter transferred to Kisii Level 5 Hospital for better medical attention. The matter of the abandoned child was reported to Kisii Central Police Station and the same was recorded vide OB No. 53/12/6/2013. The incident was reported to the Kisii District Children Officer who managed to secure a placement for the child at New Life Home Trust, Kisumu. The child was admitted at the said home on 28th June 2013 for care and protection and this is evidenced by the child’s admission form into the said home.

The Chief Magistrate Children’s Court sitting at Kisii, in accordance with **Section 119** of the **Children Act**, committed the child to New Life Home Trust, Kisumu on 28th June 2013 vide **P&C No. 3/2013**. She was later transferred to New Life Home Trust, Kilimani on 7th August 2013. The child was placed in the custody of the Applicant on 6th February 2014 for mandatory bonding prior to adoption. The child has since then been in the continuous custody and care of the Applicant. According to correspondence from relevant police authorities at Kisii Central Police Station, no one has come forward to claim the child. A report to that effect has been filed in Court. Thus, this Court dispenses with the consent of the child’s biological parents to the proposed adoption of the child by the Applicant. The adoption society, Little Angels Network issued a certificate declaring the child free for adoption pursuant to **Section 156(1)** of the **Children Act**. The said freeing certificate is no. *[particulars withheld]* and the same is dated 5th February 2014.

In an application filed on 10th November 2015, the Applicant sought among others, orders from this Court that L J K be appointed as the child’s guardian ad litem, and that the Director of Children Services be ordered to investigate her suitability to adopt the child and submit a report. The Applicant further sought for an order that upon adoption the child be known as Z M N. The Applicant also sought to have the Court appoint her friend, S W N as the child’s legal guardian. On 26th February 2016, this Court issued an order appointing L J K as the child’s guardian ad litem, and further directing the guardian ad litem and the Director of Children Services to file their respective reports in Court.

Pursuant to **Section 156(1)** of the **Children Act**, before this matter came up for hearing, Little Angels Network, the relevant adoption society, prepared and filed in Court a favourable report in respect of the proposed adoption of the child 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, L J K, also filed the statutory report made under **Section 160(2)** of the **Children Act** in which she noted that the proposed adoption of the child by the Applicant is in the best interest of the child.

The Applicant is from a stable family background. She attended and successfully completed formal education. She is in formal employment and financially stable to take care of the child. She enjoys good health and has no criminal record.

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 allows the Applicant to adopt the child. This 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 relative to the adoption of the child. The consent of the biological parents of the child was dispensed with since the child was abandoned at birth, and her biological parents could not be traced to give their consent. This Court has satisfied itself that the Applicant is qualified and able to take care of the child. The home visits by the guardian ad litem, the Adoption Society and the Director of the 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 was evident that in the period that the Applicant has had the custody of the child, the child has bonded well with her. The child considers the Applicant to be her mother.

On the basis of a 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 interest of the child to be adopted by the Applicant. Hence, this Court allows the Applicant's application. The Applicant, L W N, is hereby allowed to adopt Baby A Z. Henceforth, the child shall be known as Z M N. Her date of birth shall be 11th June 2013. Her place of birth shall be Oresi Health Centre within Kisii County. She is presumed to be a citizen of Kenya by birth. S W N, a friend of the Applicant, shall be the legal guardian of the child should such eventuality 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 so ordered.

DELIVERED AND SIGNED IN OPEN COURT AT NAIROBI THIS 14TH DAY OF JUNE, 2016

M. W. MUIGAI

JUDGE

In presence of:-

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