



REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA
AT NAIROBI
ADOPTION CAUSE NO. 73 OF 2013
IN THE MATTER OF THE CHILDREN ACT, 2001
AND
IN THE MATTER OF BABY N M (MINOR)
J W G.....APPLICANT

JUDGMENT

J W G (“the Applicant”) seeks by her application to be allowed by this Court to adopt Baby N M (hereafter “the child”). The Applicant is a business lady. She has never been married. She has one biological child, a son born on 6th June 1991. The Applicant wants to give her child a sibling thus; she wishes to adopt a child. Her biological son has given his consent to her proposed adoption.

The child who is the subject of the present adoption proceedings is presumed to have been born on 18th November 2010. She was found abandoned within Waithaka Shopping Centre within Nairobi County on 19th November 2010. A report on the matter of the abandoned child was made to Riruta Police Station and the same was recorded vide OB No. 21/20/11/2010. The incident was reported to the Dagoretti Division Children Officer who managed to secure a temporary placement for the child at Dagoretti Children’s Centre (Abandoned Baby Centre) where the child was admitted on 20th November 2010 for care and protection as evidenced by the child’s admission form into the said home.

The Senior Resident Magistrate Children’s Court sitting at Nairobi, in accordance with **Section 119** of the **Children Act**, committed the child to the said children’s centre on 11th March 2011 vide **P&C No. 76/2011**. The child was placed in the custody of the Applicant on 23rd November 2011 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 Riruta 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, Kenya Children’s Homes, 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 is dated 20th September 2011.

In an application filed on 3rd April 2013, the Applicant sought among others, orders from this Court that A G T 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 also sought to have the

Court appoint her brother, AG and his wife M N N, as the child's legal guardians. She further sought for an order that upon adoption the child be known as P L N. On 27th September 2013, this Court issued an order appointing A G T 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, Kenya Children's Homes, 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, AGT, 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 would be in the best interests 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 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 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.

The Applicant has attached documents to confirm that she has a clean record with no criminal offences. She is financially and socially stable to take care and provide a home for the child.

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, J W G, is hereby allowed to adopt Baby NM. Henceforth, the child shall be known as P L N. Her date of birth shall be 18th November 2010. Her place of birth shall be Nairobi-Kenya. She is presumed to be a citizen of Kenya by birth. A G and M N N, the Applicant's brother and sister-in-law respectively shall be the legal guardians 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 the presence of:-

.....
.....