



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI

ADOPTION CAUSE NO. 179 OF 2011 (OS)

IN THE MATTER OF THE CHILDREN'S ACT NO. 8 OF 2001

IN THE MATTER OF ADOPTION OF BABY V

BY

R N I (APPLICANT)

JUDGMENT

1. The Applicant R N I is a Kenyan citizen. She is single and has no child of her own. She wishes to adopt the child known as Baby V, a minor of the female sex through the Originating Summons dated 19th September, 2011. The Applicant indicates that she is a secretary with **[particulars withheld]**. She resides at Nairobi, South B Mariakani.
2. The child who is the subject of this adoption was found having been abandoned at infancy at Akila 1 Estate, Madaraka area in Nairobi on 6th November, 2007 by a Good Samaritan of the name of B O. The matter was reported to Lang'ata Police Station, via OB No. [Particulars withheld]. She was later referred to Thomas Barnardo House, where she was admitted on the same day for care and protection. On 29th February 2008 the Senior Resident Magistrate court at Nairobi committed the child to the same home vide P&C Case No. 8/2008. A letter from Lang'ata Police Station dated 27th October 2008 asserts that the biological parents of the child were not traced nor did anyone come forward to claim the child.
3. On 13th April, 2008 the child was discharged from Thomas Barnardo house and placed in the care of the Applicant with a view to adoption. The Applicant also signed a Foster Care Agreement dated on 11th April, 2008. Since then the child has been in the continuous custody and care of the Applicant.
4. Prior to the hearing of the adoption application, Kenya Children's Home, an adoption society prepared and filed a report in court. They also issued a certificate No. **[particulars withheld]** dated 10th November, 2008 declaring the child free for adoption. The guardian ad litem Mrs. H N filed a report dated 16th May, 2016 which was favourable and recommended the adoption of the child by the Applicant.
5. The Director of Children's Services has also made home visits and established that the Applicant is financially and emotionally capable of providing for the up keep and education of the child. He filed a report dated 18th November, 2015 recommending the adoption for reasons that the child stands to gain from the opportunities provided by becoming the daughter of the Applicant as opposed to living all her life in an institution as an abandoned child.
6. The child was in court during the hearing and appeared to have bonded well with the Applicant. She

was jovial and clearly seemed to trust the Applicant. She regarded her as her parent. The Applicant's family members are aware of the proposed adoption and support it.

7. After a careful assessment of the reports filed herein and from the observation of the interaction of the Applicant and the child during the hearing, this court has formed the opinion that it would be in the best interest of the child to be adopted by the Applicant. The Applicant being aged 53 years old, she is older than the child by more than 21 years as required by the law.

8. More importantly, the orders sought by the Applicants relate to a child. In law, in any matter concerning a child, the best interests of a child are paramount. **Article 53(2)** of the **Constitution** provides the guiding principle on this question as follows:

“A child’s best interests are of paramount importance in every matter concerning the child.”

The other pertinent law is the **Children Act No. 8 of 2001** and in particular **Section 4(3)** thereof.

9. From the foregoing, this court has formed the opinion that it would be in the best interest of the child to be adopted by the Applicant. Reasons wherefore I allow the prayers sought in the Originating Summons dated 19th September, 2011 and order as follows:

- i) The Applicant, R N I is hereby allowed to adopt **Baby V** who shall henceforth be known as **N K G**.
- ii) Her date of birth shall be presumed to be 3rd November, 2007 She is presumed to have been born in Kenya and the place of birth shall be Nairobi.
- iii) D B (Applicant's sister), is hereby appointed legal guardian of the child in the event that the Applicant dies or is incapacitated by ill-health.
- iv) The Registrar General is directed to enter this order in the Adoption Register.
- v) The Director of Immigration is hereby authorised to issue the child with a Kenyan passport.
- vi) The guardian ad litem is hereby discharged.

It is so ordered.

SIGNED DATED and DELIVERED in open court this **21st day of July 2016**.

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L. A. ACHODE

JUDGE