

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI

ADOPTION CAUSE NO. 266 OF 2013

IN THE MATTER OF THE CHILDREN ACT NUMBER 8 OF 2001

AND

**IN THE MATTER OF AN APPLICATION FOR ADOPTION OF BABY S *alias* BABY GIRL
(INFANT)**

K Y..... APPLICANT

JUDGMENT

1. The applicant K Y is seeking to be authorized to adopt baby S and that upon making the adoption the child be called A S Y. She also seeks that her brother M A Y be appointed the legal Guardian of the child.
2. The applicant is an American citizen working and residing in Kenya since March 2005. She earns a substantial income sufficient to support herself and the child. She has been recommended as a person suitable to adopt the child and is in good health. The United States department of Homeland security via its letter dated 18th October 2013 indicated that it would recognize the child upon legal adoption by the applicant as a citizen in the United States of America.
3. The child is estimated to have been born on 2nd July 2014 and was reportedly abandoned at Garissa Referral hospital by the mother. The matter was reported at Garissa Police Station and recorded as OB [particulars withheld] and was committed to Nest Children's Home for care and protection on 12/02/2015 upon the application by the Garissa Children's Department to the children's court in children case no 31 of 2014. The Garissa police in their final letter dated 26th January 2015 indicated that no one had appeared or claimed the baby. The child was declared free for adoption by KKPI on 25th March 2015. A certificate declaring the child free for adoption no. [particulars withheld] was issued by KKPI. The child was released by the Nest children's home to the applicant vide the child release agreement dated 1st May 2015 where she has been to-date.
4. The report from the adoption agency was filed on the 25th November 2015. The report in recommending the applicant to be allowed to adopt the child stated that the applicant has met legal adoption requirements as per the Children's Act and has proven capable of taking on parental responsibility. She is financially stable and has adequate resources to cater to the child and the child stands to gain if adopted by the applicant.
5. The department of Children's services filed their report on 12th July 2016. In recommending the applicant to be allowed to adopt the child they observed that the applicant though she applied under local adoption having been a resident in Kenya since March 2005 and being a foreigner has fulfilled some of the requirements of the international adoption under the children's Act. She has been found suitable by a registered adoption society. She has proved during the fostering period she is capable of raising the child. That it will be in the child's best interest to be adopted by the applicant.
6. It is evident that the applicant has fulfilled all the legal requirements relating to the adoption of the child. This court is satisfied that the applicant is qualified and able to take care of the child. It is evident that the applicant is financially stable and capable to provide for the upkeep and education of the child. It was evident that in the period that the applicant has had the custody of the child, the child bonded well with her.

7. This court finds that it would be in the best interest of the child to be adopted by the applicants. I allow the application for adoption. The Applicant **K Y** is hereby allowed to adopt Baby **S** she will be known as **A S Y. M A Y** shall be the legal Guardian of the child should misfortune befall the applicant. I direct the Registrar General to enter this order in the adoption register. The child was born in Kenya, is therefore a Kenyan by birth, and is entitled all the rights that accrue to Kenyan citizens under the Kenya Constitution 2010 and the Kenya citizenship and Immigration Act. I hereby discharge the Guardian ad litem. It is so ordered.

Signed, dated and delivered this **31st** Day of **August** 2016.

R. E. OUGO

JUDGE

In the presence of:

.....**For the Applicant**

Ms. Charity

Court Clerk