

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI

ADOPTION CAUSE NO. 7 OF 2016

IN THE MATTER OF THE CHILDREN ACT, 2001

AND

IN THE MATTER OF BABY N (MINOR)

C M M APPLICANT

JUDGMENT

C M M (“the Applicant”) is a sole female applicant. The Applicant has never been married. She is employed as a Consultant Pharmacist with Management Sciences for Health (MSH), a nonprofit international organization. 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 N (hereafter “*the child*”). The child who is the subject of the present adoption proceedings was born on 26th January 2012 at Kenyatta National Hospital. She was abandoned at the hospital by her biological mother who absconded from the hospital on 13th March 2012. A report on the matter of the abandoned child was made to Kenyatta Police Post the same was recorded vide OB No. 23/13/03/2012. The incident was reported to the Nairobi Provincial Children Officer who managed to secure a placement for the child at Happy Life Children’s Home. The child was discharged from the hospital on 2nd May 2012 and was admitted at Happy Life Children’s Home on the same day for care and protection and this is 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 home on 9th July 2012 vide **P&C No. 243/2012**. The child was placed in the custody of the Applicant on 15th December 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 Kenyatta Police Post, 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 child has been declared free for adoption pursuant to **Section 156 (1)** of the **Children Act**, by the adoption society, KKPI. The said freeing certificate is no. 411 and the same is dated 30th July 2014.

In an application filed on 20th January 2016, the Applicant sought among others, orders from this Court that C W 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 N M. The Applicant also sought to have the Court appoint her sister, J K M- I and her brother-in- law, G W I as the child’s legal guardian. On 9th June 2016, this Court issued an order appointing C W 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, C W 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.

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, C M M, is hereby allowed to adopt Baby N. Henceforth, the child shall be known as N M. Her date of birth is 26th January 2012. Her place of birth is Kenyatta National Hospital. She is presumed to be a citizen of Kenya by birth. The Applicant's sister, J K M I and her brother-in-law, G W I, 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.

DATED AT NAIROBI THIS THIS 13TH DAY OF OCTOBER, 2016

M. W. MUIGAI

JUDGE

In presence of:-

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