

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI

(FAMILY DIVISION)

ADOPTION CAUSE NO. 290 OF 2015

IN THE MATTER OF AN APPLICATION FOR ADOPTION OF BABY J also known as P W N

JUDGEMENT

1. The applicant, S N K, is a Kenyan citizen. She is a widow. She seeks to adopt Baby J also known as P W N. Her Originating Summons is dated 11th December 2015.

2. The child in question was presumably born on 15th June 2013. She was found by a Good Samaritan abandoned at the Kosovo area of Mathare within Nairobi County on 14th July 2013. The matter was reported the following day at the Muthaiga Police Station. The child was admitted at the Barbados Children's Home, for care and protection. She was eventually formally committed to that institution by the Nairobi Children's Court. The police were unable to trace her biological parents or other relatives.

3. The child was freed for adoption by the Kenya Children's Homes adoption society by their certificate number [particulars withheld] of 11th March 2015.

4. I have carefully perused through the papers filed herein and noted that the documentation presented by the adoption agency arranging the adoption does not rhyme with the pleadings. The initial police letter, handwritten, dated 14th July 2013 does not identify the child by name. A typed letter from Muthaiga Police Station of even date refers to a child known as J A. The final police letter refers to the child simply as J. When the Children's Officer placed the child before the Children's Court, the forwarding letter dated 29th July 2013 referred to a child called G. That is the name that appears in the court's committal order of 21st August 2015. The clinical/immunizations card serial number [particulars withheld] opened on 23rd July 2013 is in respect of a child called G, and so does the DNA PCR test results slip dated 27th August 2013. The form signed by the Consultant Paediatrician of the Thomas Barnados House dated 16th July 2013 identifies the child as G, and so does the form filled upon the admission of the child at the home on 14th July 2013. The care agreement form signed between the home and the applicant refers to a baby called G or P W N, while the freeing documents refer to a J also known as G.

5. It is critical that it emerges from all the material placed before the court that the child the subject of those documents is the same as that the subject of the proceedings here. The suit herein concerns J also known as P W N. The pleadings make no reference whatsoever to G. It is not clear whether this is the same as the person known as J A and G.

6. I am unable to grant the orders sought in the circumstances. I shall dismiss the suit.

DATED, SIGNED and DELIVERED at NAIROBI this 25TH DAY OF NOVEMBER, 2016.

W. MUSYOKA

JUDGE