



REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA AT NAIROBI
ADOPTION CAUSE NO. 1 OF 2016 (OS)
IN THE MATTER OF THE CHILDREN'S ACT NO. 8 OF 2001
IN THE MATTER OF ADOPTION OF BABY J M
BY
G C K AND G N K (APPLICANTS)

JUDGMENT

1. The Applicants G C K and G N K got married under Kikuyu Customary Law in the year 2009. They have no child of their own. They wish to adopt the child known as Baby J M, a minor of female sex, through the Originating Summons dated 6th January, 2015. In their Petition they indicate that G C K is an accountant with [Particulars withheld] while G N K is a hairdresser and beautician with [Particulars withheld]. They reside in Waithaka and both profess the Christian faith.
2. Records indicate that on 28th May, 2014, the child who is the subject of this adoption proceedings was found abandoned at infancy, in the Ruiru by an unknown person. The matter was reported and recorded vide OB No. [Particulars withheld] at Ruiru Police Station on the same day. The child was admitted to New Life Home Trust on the same day.
3. On 28th January, 2015 the child was officially committed to the New Life Home by the Nairobi Children's court vide P&C Case No. 16 of 2015. A letter dated 12th January, 2015 from Ruiru Police Station indicates that the biological parents of the child were not traced, nor did anyone come forward to claim the child.
4. The child was declared free for adoption on 25th February, 2015 by the Kenya to Kenya Peace Initiative Adoption Society, vide certificate No. [Particulars withheld]. She was released into the custody of the Applicants for mandatory foster care pending adoption on 19th March, 2015 upon the Applicants signing a Foster Care Agreement dated the same day. Since then she has been in the continuous custody and care of the Applicants.
5. Prior to the hearing of the adoption application, Kenya to Kenya Peace Initiative, an adoption society, prepared and filed a report in court. The Adoption Society, guardian ad litem and the Director of Children's Services have all made home visits and established that the Applicants are financially and emotionally capable of providing for the up keep and education of the child.
6. The Director of Children's Services also filed a report dated 12th September, 2016 recommending the adoption for reasons that the child stands to gain the opportunities provided by becoming the daughter of the Applicants. That she has flourished under their care ad bonding has taken place. The guardian ad

litem, L P M also filed a report that was favourable and recommended the adoption of the child by the Applicants.

7. The child was in court during the hearing. She was a chubby little girl who appeared to have bonded well with the Applicants. She was jovial and related well with the Applicants as if they were her natural parents.

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.”

This principle also finds expression in the **Children Act No. 8** of **2001** and in particular **Section 4(3)** thereof.

9. This is a local adoption where the Applicants, in my opinion fulfil the requirements for local adoption under the Children Act, 2001. They have proved during the placement period prior to adoption that they are capable of taking on the challenge of raising the child in this matter. They also meet the social parameters that I consider relevant to their taking on parental responsibility and custody of the child in this matter on a permanent basis as would be conferred by the adoption order sought.

10. From the foregoing, I have formed the opinion that it would be in the best interest of the subject child to be adopted by the Applicants. Reasons wherefore I allow the prayers sought in the Originating Summons dated 6th January, 2015 and order as follows:

- i. The Applicants, G C K and G N K are hereby allowed to adopt **Baby J M** who shall henceforth be known as **L N C**.
- ii. Her date of birth shall be presumed to be 20th May, 2014. She is presumed to have been born in Kenya in accordance with **Article 14 (3)** of the **Constitution**, and the place of birth shall be Ruiru.
- iii. G W and D M (brother and sister to the female Applicant), are hereby appointed as legal guardian of the child in the event that the Applicants die or are 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 **24th** day of **November, 2016**.

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L. A. ACHODE

JUDGE

In the presence ofAdvocate for the Applicants