



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI

ADOPTION CAUSE NO. 13 OF 2016 (OS)

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

IN THE MATTER OF ADOPTION OF BABY B K ALIAS M B O

BY

M O O AND C A O (APPLICANTS)

JUDGMENT

1. The Applicants M O O and C A O are in a monogamous marriage which was solemnized at [particulars withheld] in Naivasha on 13th May, 2012. They have no child of their own.
2. The Applicants wish to adopt the child known as Baby B K Alias M B O a minor of male sex, through the Originating Summons dated 20th January, 2016 They indicate that M O O is a personal driver with [particulars withheld] while C A O is a chef with [particulars withheld]. They reside in [particulars withheld] and are both Christians.
3. The child in this matter, according to records, was found by a Good Samaritan abandoned in a maize plantation at [particulars withheld] on 25th June, 2014. On 26th June 2014, the Good Samaritan reported the matter to the area Chief who in turn, reported the matter at the Njoro Police Station. The report was booked vide OB No. [particulars withheld]. The child was admitted to Haven of Hope Baby Centre for care and protection on 27th June, 2014 with malnutrition.
4. On 11th July 2014, the child was officially committed to the same Home by the Nakuru Children's court vide Protection and Care Case No. 277 of 2014. A letter dated 13th January 2015 from Njoro Police Station confirmed that the biological parents of the child have not been traced and neither has anyone come forward to claim the child.
5. The child was declared free for adoption on 6th March, 2015 by the Buckner Kenya Adoption Services, vide certificate No.[particulars withheld] in accordance with **Section 156(1)** of the **Children Act 2001**. The child was released to the Applicants upon the signing of a foster care agreement on 21st September, 2015. Since then he has been in the continuous custody and care of the Applicants.
6. Prior to the hearing of the adoption application, Buckner Kenya Adoption Services 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.

7. The Director of Children’s Services also filed a report dated 7th August, 2016 recommending the adoption for reasons that the child stands to gain the opportunities provided by becoming the son of the Applicants and growing up in a loving home rather than growing up in an institution.

8. The guardian ad litem L A also filed a report that was favourable and recommended the adoption of the child by the Applicants.

9. The child was in court during the hearing and appeared to have bonded well with the Applicants. He was jovial and related well with the Applicants.

10. The main consideration in an application such as this is that the best interest of the child is paramount. **Article 53(2)** of the **Constitution** provides the guiding principle on this issue as follows:

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

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

11. 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. The child has thrived under their care. Secondly they meet the social parameters that are considered 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.

12. 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 Applicants. Reasons wherefore the prayers sought in the Originating Summons dated 20th January, 2016 are allowed with orders as follows:

- i. The Applicants, **M O O** and **C A O** are hereby allowed to adopt **Baby B K Alias M B O** who shall henceforth be known as **M B O**.
- ii. His date of birth shall be presumed to be 11th June, 2014. He is presumed to have been born in Kenya in accordance with **Article 14 (3)** of the **Constitution**, and the place of birth shall be Naivasha.
- iii. V O and A A (friends to the Applicants) are hereby appointed legal guardians 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 **17th day of November, 2016**.

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L. A. ACHODE

JUDGE

In the presence ofAdvocate for the Applicants