

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI

(FAMILY DIVISION)

ADOPTION CAUSE NO. 156 OF 2015

IN THE MATTER OF AN APPLICATION FOR ADOPTION OF BABY M

JUDGEMENT

1. The applicants, A O M and F M I, are Kenyan citizens. They are a married couple. They seek to adopt Baby M. Their originating summons is dated 25th May 2015.
2. According to the pleadings, the child sought to be adopted is called Baby M.
3. I have gone through paperwork attached to the affidavit in support of the Originating Summons. I have noted that the very initial document in the matter is dated 10th December 2013, and it is what was used to transfer or refer the child from Mbagathi District Hospital to Kenyatta National Hospital. The child named in that document is Baby M A O. There is copy of a letter by the Kenyatta National Hospital dated 3rd February 2014 addressed to the Provincial Children's Officer; it is in respect of a child called Baby M A. There is also a document from Kenyatta National Hospital headed "Home Placement Form" dated 3rd March 2014, which is in respect of Baby M A. The officer in charge of the Kenyatta Police Post wrote to Nest Children's Home on 21st February 2014, the letter was in respect of a child called Baby M A. A child was admitted at the home on 3rd March 2014 named M M A. Then there is a letter from the Ministry of Labour, Social Security and Services dated 4th February 2014 to the home on Baby M A. There is a police letter dated 21st August 2014 which again refers to a child called M A.
4. References to Baby M are in documents generated as from April 2014. There is a letter from the Ministry of Labour, Social Security and Services dated 16th April 2014 on a child called Baby M, addressed to the court. The court order committing the child to the institution, dated 16th April 2014, is also in respect of M. A certificate of birth dated 27th August 2014 is in respect of M, and her mother is identified as M A. The document releasing the child to the applicant refers to her by multiple names – Baby M M, Baby M and M M A.
5. I am not satisfied that the pleadings herein adequately bring out the connection between the child described in paragraph 3 here above, and that in paragraph 4 here above. There is no pleading that the child referred to in the two paragraphs is in fact the same person. There is no knowing whether the child abandoned at Mbagathi District Hospital and who is the subject of the documents referred to in paragraph 3 above, is the same as the child that was committed by the court on 16th April 2014 to an institution and subsequently placed with the applicants on 24th October 2014.
6. I am unable to grant the orders sought in the circumstances and I consequently do hereby dismiss the Originating Summons dated 25th May 2015.

DATED and SIGNED at NAIROBI this 16TH DAY OF DECEMBER, 2016.

W. MUSYOKA

JUDGE

DELIVERED and SIGNED this 20TH DAY OF DECEMBER, 2016.

R. OUGO

JUDGE