

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA

AT EMBU

ADOPTION CASE NO. 2 OF 2016

IN THE MATTER OF B.N.W. (CHILD)

L.W.M.....APPLICANT

RULING

1. This is an application for an adoption order brought by the applicant by way of an originating summons dated 18th October 2016, which is expressed to be under sections 154 (1), 156, 157, 158, 159 and 170 of the Children's Act. The application is supported by the grounds set out on the face of the originating summons.

2. The 1st ground is that the child who is sought to be adopted by the petitioner is a total orphan. The 2nd ground is that the order sought is in the best interests of the child. The 3rd ground is that the applicant has had possession and actual care of the child since October 2014 to date. The 4th ground is that the applicant is competent to take care of the child because she is possessed of sufficient means to cater for the child's welfare. The 5th ground is that the Adoption Society of Kenya has agreed to her application to adopt the child.

3. Furthermore, the application is anchored in the applicant's supporting 7 paragraph affidavit. She has deponed amongst other matters that she has been in custody of the child since October 2014 when she was allowed to do so with consent of the Adoption Society of Kenya namely the the Child Welfare Society of Kenya in respect of which she has annexed an agreement of her being a foster parent. She has also deponed that she is a Clinical Officer employed in a government hospital and has the means and ability to take care of the child. She has further deponed that a social worker had visited her home three times and was satisfied that she was able and competent to adopt the child.

4. Mr. Kimathi, counsel for the applicant made oral submissions urging the court to grant the applicant an order for adoption. He submitted that the child was collected from a dustbin in Kayole Nairobi and was then taken to Muranga Rescue Center which is run by the Child Welfare Society of Kenya. He also submitted that the applicant has been taking care of the child for the last two years and she is a civil servant who is possessed of sufficient resources to take care of her. He further submitted that the applicant has not had any criminal record and has never been charged with a criminal offence against any child. And it is in this regard he referred the court to the certificate of good conduct from the Criminal Investigation Department of the Kenya Police Service.

5. I have considered the affidavit evidence of the applicant and I find that she is a civil servant in the employment of the Kenyan Government as a Clinical Officer. I also find from her affidavit evidence that she has a residential house in Embu town which is her own property. I further find that she has no criminal record, a matter which is clear from the certificate of good conduct from the police. I also find that the child's guardian who is a sister to the applicant supports the application of the applicant.

6. In the circumstances, I find that the applicant is a fit and proper person to be granted the order of adoption in terms of prayer No. B of her originating summons of 18th October 2016. The applicant is hereby granted the order of adopting the child as her mother.

RULING DATED, SIGNED and DELIVERED in chambers at **EMBU** this **15th** day of **DECEMBER**,

2016

In the presence of the both Mr Kimathi for applicant and the applicant.

Court clerk Njue

J.M. BWONWONGA

JUDGE

15.12.16