



**REPUBLIC OF KENYA**

**IN THE HIGH COURT OF KENYA AT NAIROBI**

**ADOPTION CAUSE NO.148 OF 2015**

**IN THE MATTER OF THE CHILDREN ACT NUMBER 8 OF 2001**

**AND**

**IN THE MATTER OF AN ADOPTION OF BABY MMM OO &**

**S K.....APPLICANTS**

**JUDGMENT**

1. The applicants **MOO** and **SK** are seeking to be authorized to adopt baby **MM**. They also seek that upon making the adoption the child be called **NMO**. They also seek that their **CCK** be appointed the legal Guardian of the child.
2. **MOO** and **SK** are both Kenyan citizens born in 1976 and 1980 respectively and residing in Buru Buru Phase 1 within Nairobi. The applicants got married on 5th February 2011 and have not been blessed with a biological child of their own. The 1st applicant is a building consultant working with [particulars withheld] and the 2nd applicant is a public and relations and journalism diploma holder working with [particulars withheld]. The child in question was placed into their custody on 30th November 2013 has been under their care ever since.
3. The child in question is estimated to have been born on 31st July 2013 at Tigoni District Hospital and was given up for adoption by the mother who gave her reasons that she would not be able to take care of the child due to lack of financial means.
4. The child was handed over and admitted to the Nest Children's home where he was admitted on 20th November 2013 through a committal order by the Limuru Senior Principal Magistrate in care and Protection case number 41 of 2013. The child was declared free for adoption by KKPI on 27th November 2013 and was issued with a certificate declaring a child free for adoption serial number [particulars withheld]. The child was later on 30th November 2013 placed with the applicants for the mandatory bonding prior to adoption and the child has been under their care and control since then.
5. The Department of Children's Services filed their report on 10th August 2016. The investigator observed that the applicants had bonded with the child and knows the applicants as his parents. The applicants are socially and economically able to take care of the child. Both applicants have no criminal record and have been issued with certificate of good conduct. The report notes that the applicants have fulfilled the legal requirements for adoption under the provisions of the children's Act. They are capable of taking up parental responsibility over the child and have been assessed and found fit to take on parental responsibility upon the child and recommends that it is in the interest of the child to be adopted by the applicants.

6. The child's biological mother signed a consent for adoption on affidavit dated 30th September 2013. The child's biological mother one MMW executed an affidavit of consent to the adoption of a child dated 30th September 2013. In her said affidavit she avers that the father to the said child has never been involved in any way with the upkeep of the child and she was unable to contribute towards the child's maintenance and welfare as she has three other children she is taking care of and earns a meager income as a casual worker. That after long consultations it was found best for her to offer MM to a charitable home for his own interest . That on 20th June 2013 she accompanied by her aunt went to KKPI Adoption Society with view of giving the child up for adoption. There they were taken through an explanatory memorandum for Adoption of children and she signed the same on 20th June 2013 confirming that she understood the memorandum. She acknowledged to have understood that the adoption was permanent and she gave her unconditional and unequivocal consent for the child to be adopted. She averred that her motivation of offering her child for adoption is due to her inability to take care of him and that she wants the best for him.

7. There is also an affidavit of consent to the adoption of a child by LNK the maternal grandmother of the MM and liable to contribute to the maintenance and welfare of the child. She confirms that the child's biological mother is a casual laborer and after extensive consultation with the family members it was agreed that the child remains in the custody of KKPI. That the said Adoption Society explained to them the Adoption of children-explanatory Memorandum for Biological Parents/Guardians and she understood that an adoption is permanent in nature.

8. The guardian ad-litem report by MNK filed their report on 29th July 2016 is favorable. The guardian ad-litem observed that the child has bonded with the applicants is of good health and the applicants have mapped the child's education path and there is room enough for the child to play. The guardian ad-litem recommends the adoption of baby MM by the applicants.

9. The applicants are both Kenyan citizens hence this is a local adoption. The reports are favorable and upon perusal of the documents annexed to the said application, it is clear that the applicants have met the legal requirements for adoption. The consent has been given by the biological parent, child's mother and maternal grand-mother as required under the law. This court finds that it would be in the best interest of baby MM to be adopted by the applicants. Baby MM has been given up for adoption by his biological mother M M W who indicated she was unable to cater to the child due to lack of financial ability.

10. The applicants MOO and SK are hereby allowed to adopt baby MM and he shall henceforth be called NMO. CCK will be the child's legal Guardian should misfortune befall the applicants. I direct the Registrar General to enter this order in the adoption register. The child was born in Kenya and is therefore a Kenyan by birth and is entitled all the rights that accrue to Kenyan citizens under the Kenya Constitution 2010 and the Kenya citizenship and Immigration Act. I hereby discharge the Guardian ad litem. It is so ordered.

Dated Signed and delivered this *15th* Day of *December* 2016.

**R. E. OUGO**

**JUDGE**

In the presence of

.....**For the Applicants**

**Ms. Charity.....Court Clerk**