



REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA
AT NAKURU
ADOPTION CAUSE NO.15 OF 2014
IN THE MATTER OF BABY M a.k.a S

O MINFANT

AND

C M O

P C.....APPLICANTS

RULING

The Application is brought by way of Originating Summons dated the 10th day of September, 2014. The Applicants **CMO** and **PC** through their Advocates seek the following orders:

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That the consent of the biological parents of the minor herein be dispensed with since the child was found abandoned at Kenyatta National Hospital soon after birth by his mother E W N who to date has failed to lay any claims to the child and efforts to trace her have proved futile.

That the applicants be authorized to adopt the minor **(M)** herein and the child be henceforth called **S O M**.

That the child be henceforth presumed a Kenyan citizen and hence issued with a birth certificate in reflect of the same.

That the Registrar-General do make the appropriate entries in the Adopted Children's Register in respect of the minor **(M) a.k.a S O M**

That the court does issue such other orders as may be necessary in the best interest of the child.

THAT costs be in the cause.

The applicants are lecturers at [particulars withheld] and [particulars withheld] Universities respectively. On 6th April, 2009 they started cohabiting as husband and wife until 29th June, 2012 when

they formalized their marriage at the Registrar's Office in Nakuru under the African Christian Marriage and Divorce Act (CAP 151). A Marriage Certificate No.[particulars withheld] was issued.

They have never been blessed with a child of their own, having had numerous miscarriages due to health issues and hence the desire to adopt baby **M a.k.a SOM**. They both underwent training sessions at their church and also received encouragement through colleagues' visits and sharing of experiences. They reported to have fully recovered and wished to move on with their lives. They have been living with the minor since 1st November, 2013 when he was placed with them. They have bonded well.

According to Kenyatta National Hospital records, the minor **M a.k.a SOM** was born on 27th February, 2013 and abandoned at the facility. His mother E W N who was admitted at ward GFA after giving birth absconded from the hospital leaving the baby behind on 2nd March, 2013. She had given her telephone number as [particulars withheld] but the number was out of service. She had also given her husband's name as M M of telephone number [particulars withheld] but his phone was ever switched off. The mother had claimed that she came from Nyandarua District, [particulars withheld] village but was living at Kiserian.

The matter was reported at the Kenyatta Police Post and was booked vide Occurrence Book Number 27/2/3/2913. The minor was referred to Thomas Barnardo House through the Department of Children Services for care and protection. On 13th March, 2013 he was admitted to Thomas Barnardo House as an abandoned child in need of care and protection where his health was monitored and all immunizations given as per the Kenya Expanded Programme on Immunizations guidelines.

On 19th April, 2013 the minor was officially committed to Thomas Barnardo House for Care and Protection vide Nairobi Children's Court, Milimani P. & C. Case No.86 of 2013.

On 3rd October, 2013 at the Kenya Children's Homes Adoption Case Committee's sitting, the minor **M a.k.a SOM** was declared free for adoption and a Freeing Certificate Serial No.[particulars withheld] was issued pursuant to **Section 156(1) of the Children's Act 2001**.

Kenyatta Police Post through their letter dated 9th September, 2013, asserted that efforts to trace the mother or the relatives of the child have been futile.

On the 5th day of October, 2015 B M K of Post Office Box 602-20100, NAKURU was appointed Guardian *Legal ad Litem* of the minor herein during the hearing of the adoption proceedings and the Director of Children's Services in the Ministry of Gender, Children and Social Development, Nakuru County was directed to conduct investigations as to the suitability of the applicants to adopt the minor and submit a report on his findings to court.

After conducting investigations by visiting and interrogating the Applicants, Jasephine W. Hinga on behalf of the County Coordinator Children's Services, Nakuru County filed in court a report dated 27th October, 2015 on the Applicants' suitability to adopt minor **M a.k.a SOM**.

Upon reading the above report and satisfying myself that all the legal requirements have been adhered to and also after observing the demeanor of the applicants and that of the child at the hearing hereof, this court is satisfied that the applicants are suitable persons to adopt **minor M. a.k.a. SOM** as they are financially stable and have the means to provide and care for him.

For the above reasons, the court hereby order as follows:

1. The consent of the biological parent of the minor **M a.k.a O M** be dispensed with since the child was abandoned at Kenyatta National Hospital soon after birth by his mother.
2. The applicants are authorised to adopt the Minor M and the child be henceforth called **S O M**
3. The child is presumed a Kenyan citizen and hence issued with a birth certificate to reflect of

the same.

4. The Registrar-General do make the appropriate entries in the adopted children's register in respect of the minor M in the name **S O M.**

5. Costs be in the cause

Dated Signed and Delivered at Nakuru this 9th day of December, 2016

A. K. NDUNG'U

JUDGE