



REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA
AT NAKURU
ADOPTION CAUSE NO.49 OF 2015
IN THE MATTER OF BABY M A a.k.a
M W K and A a.k.a
E N K.....INFANTS
AND
E W K.....APPLICANT

RULING

The Application is brought by way of Originating Summons dated the 16th day of December, 2015. The Applicant **EWK** seek the following orders:

Spent

Spent

Spent

Spent

Spent

That the Applicant be authorised to adopt the twins **MA a.k.a MWK** and **A a.k.a ENK** infants.

That **R N M** of Post Office Box No.137, GILGIL in the Republic of Kenya be appointed Legal Guardian of the minors.

That it be directed that the Registrar General shall make in the Adopted Children's Register an entry recording the adoption in accordance with the particulars set out in the Schedule to this Order.

That the Registrar of Births and Deaths be and is hereby directed to issue the infant twins with certificates of birth in the names of **M W K** and **E N K** respectively.

The applicant is a widow having gotten married to the late J K N in 1991 under the Kikuyu Customary Law. Her late husband passed on 2nd February, 2010 from Anaemia. The two had lived together for

nineteen (19) years, built wealth and had an understanding and a close marriage. The greatest challenge however, was lack of a child. The Applicant had conceived twice but miscarried at three and four months respectively. This has now made her opt to bring up children through adoption of the two babies.

In 1992 before the death of her husband, she started selling second hand clothes which she does to date and in 1997 she ventured into real estate and had been in it to date. She lives and owns property in Gilgil. She is a member of the Presbyterian Church of East Africa.

According to the records by both the Chief Administrator and Adopting Programme Officer, Kenya Children's Home, **Baby MA a.k.a MWK** was presumably born on 20th August, 2011. She was abandoned on 17th August, 2013 at 8.00p.m. at the Nairobi Railway Station by an unknown woman. The unknown woman approached one L A, a resident of Mombasa who was getting a ticket to Mombasa and requested her to take care of the baby while she (the unknown woman) went to get something for **Baby MA a.k.a MWK**. She never came back. After waiting for the unknown woman to come back from 8.00p.m. to midnight, L took the **Baby MA a.k.a. MWK** to Kamukunji Police Station.

The matter was reported at Kamukunji Police Station and was recorded vide Occurrence Book No.4/17/8/2013. The Officer-in-Charge sought for placement of **Baby MA a.k.a MWK** at Thomas Barnado House for care and protection. The **Baby MA a.k.a MWK** was admitted at the home on 17th August, 2013. At the home she was examined and found to have grown normally and was declared HIV negative. She received all the immunizations as per the Kenya Expanded Programmed and Immunization guidelines.

On 13th November, 2013 **Baby MA a.k.a MWK** was officially committed to Thomas Barnardo House for Care and Protection vide Nairobi Senior Resident Magistrate Children's Court, P. & C. Case No.409 of 2013. On the same day, the minor was presumed to be a Kenyan Citizen.

Kamukunji Police Station through their letter dated 20th February, 2014 asserted that since the matter was reported at their station, no one went there to claim the child and their investigations to search for her relatives were futile. The Good Samaritan, one L A was contacted severally by the Kamukunji Police Station in order to give the status of the case with no success as her phone was permanently off.

On 15th April, 2014 at the Kenya Children's Homes Adoption Case Committee's sitting, the minor **MWK** and **ENK** was cleared free for adoption and a Freeing Certificate Serial No.[particulars withheld] was issued pursuant to **Section 156(1)** of the **Children's Act 2001**.

On 4th November, 2014, the minor was placed with the applicant for care and protection and she bonded very well.

Baby A a.k.a ENK was presumably born on 20th August, 2011. He was found abandoned at the entrance of Kenyatta National Hospital Tower Block on 12th August, 2013. He was rescued and admitted at the same hospital though healthy and well nourished. On 16th August, 2013 he was discharged and the matter reported at the Kenyatta Police Post where it was booked vide OB No.27/13/8/2013 and he was referred to Thomas Barnardo House for care and protection.

On 16th August, 2013 **Baby A a.k.a ENK** was officially admitted at Thomas Barnardo House where his health was monitored, immunization offered as per the Kenya Expanded Programme on Immunizations guidelines. He was declared HIV free.

Baby A a.k.a ENK was later on 13th November, 2013 vide Nairobi Children's Court P. & C. No.403 of 2013. Kenyatta Police Post vide their letter dated 10th March, 2014 asserted that investigations were done and since the time the Baby was abandoned, no one had ever gone to the police station to claim him .

On 15th April, 2014 at the Kenya Children's Homes Adoption Society Case Committee's sitting **Baby A a.k.a ENK** was declared free for adoption pursuant to **Section 156(1)** of the **Children's Act 2001** and a

Freeing Certificate Serial No. [particulars withheld] issued.

Baby A a.k.a ENK was placed under the care of the applicant on 4th November, 2014 where he lives to date and joined [particulars withheld] Academy. He has bonded so well with the sister **Baby MA a.k.a MWK**.

On the 9th day of February, 2016 among other orders, R N M of Post Office Box 137, Gilgil in the Republic of Kenya was appointed *Guardian ad Litem* and The County Director Children's Department, Office of Deputy President, Ministry of Gender and Youth Affairs, Nakuru was ordered to investigate the Applicant's fitness to adopt and file a report.

By a letter dated 13th January, 2010 addressed to The Registrar, High Court Nairobi and copied to all Adoption Societies, Mr. Justus Munyithya gave guidelines for Special circumstances by the Adoption Committee. The Kenya Children's Homes with the help of the guidelines after conducting investigations by visiting and interrogating the Applicant, filed in court two reports dated 27th November, 2015 on the Applicant's suitability to adopt both **MWK and ENK** respectively.

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 applicant and that of the children at the hearing hereof this court is satisfied that the applicant is a suitable person to adopt both **babies MWK and ENK** respectively she is financially stable and have the means to provide and care for them.

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

1. The Applicant be authorised to adopt the twins **MA a.k.a MWK** and **A a.k.a ENK** - infants.
2. The Registrar General do make in the Adopted Children's Register an entry recording the adoptions in accordance with the particulars set out in the Schedule to this Order.
3. The Registrar of Births and Deaths be and is hereby directed to issue the infant twins with certificates of birth in the names of **M W K** and **E N K** respectively.

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

A. K. NDUNG'U

JUDGE