



REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA AT NAIROBI
ADOPTION CAUSE NO. 254 OF 2015
IN THE MATTER OF THE CHILDREN ACT, 2001
AND
IN THE MATTER OF BABY M
C W K.....APPLICANT
JUDGMENT

INTRODUCTION

C W K (hereafter ‘the Applicant’), through her Originating Summons dated 15th October, 2015 wishes to adopt Baby M and she seeks the following orders:

- (1) That the Applicant, C W K be authorized to adopt the child currently identified and known as Baby M.***
- (2) That the child be renamed M N W K.***
- (3) That the child be presumed to be a Kenyan citizen, and as a consequence, be entitled to the rights and benefits of a Kenyan citizen, including being issued with a Kenyan Passport whenever desired.***
- (4) That the Registrar General makes the appropriate entries in the Adopted Children Register.***
- (5) That this Court do issue further orders as are in the interest of justice.***

THE APPLICANT’S CASE

In her Written Statement dated 30th March, 2015, in support of the Application the Applicant contended that she is 39 years old and a Kenyan citizen of black race. She stated that she is single and has never been married and neither does she have any children.

That she is a Christian and a member of the Presbyterian Church of East Africa; a businesswoman currently employed at a supermarket within Kiambu County; and that she earns a monthly income of approximately Kshs. 40, 000/=.

It was her other statement that besides her income, she has the financial means and capability and she even owns a piece of land. Further, that she does not suffer from any ailment and that she is currently fit

both physically and emotionally and in addition, she has never been convicted of any offences.

For the foregoing reasons, she asserted that she wishes to adopt the child herein, a female presumed to be of Kenyan nationality and is of African/black race. Furthermore, that her sister, one M G K, has accepted to act and be the legal guardian of the child in the event that anything happens to her rendering it impossible for her to discharge her parental obligations towards the child.

The Applicant finally stated that she had not made any previous Application such as the present one in regard to the minor and that she is not related to her.

DETERMINATION

The key issue for determination is whether the Applicant has satisfied the criteria to warrant the grant of the adoption and the orders sought in the present Application. In that regard, **Part XII** of the **Children Act, 2001** prescribes the guidelines and threshold to be met by an Applicant in Applications such as the present one.

Applying the aforesaid provisions to the matter at hand, it will be noted that the child herein was abandoned in Kabete on 2nd November, 2013. He was rescued and admitted at Nest Children's Home. The matter was reported to Kabete Administration Police Post where it was recorded as OB No. [particulars withheld] and since the incident was reported, no one has claimed or raised any issue in regard to the child. Furthermore, according to the final Report by the OCS Kabete Police Station, dated 6th August, 2014, the child was abandoned and nobody claimed parentage over the child within the stipulated period. As it stands therefore, the child is in need of alternative care and parental attention in a family environment.

Based on the material before the Court, the Applicant was assessed by the *guardian ad litem*, M M M, and Buckner Kenya Adoption Services and was found to be suitable to adopt. According to the materials availed, the Applicant is financially and socially capable of providing for the child's needs. She has a stable income from her work and she takes home an average income of Kshs. 20, 000 per month. She has undergone medical evaluation and has been found to be mentally and emotionally stable. She is a person of good conduct as evidenced by the Certificates of Good Conduct adduced to Court.

The Buckner Kenya Adoption Services Committee sitting on 6th December, 2013 assessed the Applicant's case and approved that the Applicant does adopt one female child however, that did not happen. The Committee found the Applicant suitable to adopt the child and issued a Certificate declaring the child free for adoption. The Applicant's sister, M G K, as per the Child Release Agreement statement made on 29th September, 2014, has consented to being the child's legal guardian, in the event that anything happens to the Applicant. In addition, the Buckner Kenya Adoption Services issued a Certificate of Declaring the child herein free for adoption.

According to the Children's Officer's Report of 12th September, 2016, the Applicant has fulfilled the legal requirements for adoption and has proved capable of taking on parental responsibility over the child in this matter during the statutory placement period prior to the adoption during which he has been under their continuous care and control. Further, she is physically and mentally fit and can be entrusted with the minor for adoption and she is financially capable of bringing up the minor as she has a stable source of income. The Report also indicates that the child has bonded well with the Applicant and the home environment in which he is being raised in is conducive.

In the circumstances, the Court is of the view that the Applicant has met the criteria to warrant a local adoption and it would therefore be in the child's best interest if he is adopted. The Court grants the orders that the Applicant shall assume the responsibilities of a parent to the child. The child shall be entitled to inherit from the property of the Applicant and shall not be given up because of any eventualities that might result.

In conclusion, it is in the best interest of the child herein as he is going to have a home and a family with a secured future, with his education and wellbeing safeguarded.

DISPOSITION

The Applicant, C W K, is hereby authorized to adopt the child, Baby M. The child shall henceforth be known as M N W K. He is therefore presumed to be a Kenyan Citizen by birth and thereby accorded all the entitlements of a Kenyan citizen. M G K is hereby appointed to be the legal guardians of the child should any misfortune befall the Applicant. The Registrar General is hereby directed to enter this order in the Adoption Register.

The *guardian ad litem*, M M M, is hereby discharged. It is so ordered.

DATED, DELIVERED AND SIGNED ON THIS 8TH DAY OF DECEMBER, 2016

M. W. MUIGAI

JUDGE

In the presence of: