

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI

ADOPTION CAUSE NO 281 OF 2014

IN THE MATTER OF THE CHILDREN ACT

AND

IN THE MATTER OF BABY L

V M A APPLICANT

JUDGMENT

Before me is an application by the Applicant, V M A, seeking to be allowed by this Court to adopt Baby L. The Applicant, a sole female applicant, is a self-employed business lady who lives and works in Nairobi. The Applicant is married to D A, a citizen of the United States of America, and they celebrated their civil marriage under American law. The Applicant was previously married but that marriage was short-lived. The marriage between the Applicant and her husband D A has not been blessed with biological children of their own due to medical conditions.

The child, Baby L (hereafter “the child”) was found abandoned on 17th February 2014 at Onyanja Road in Nairobi. The child was presumed to have been born on the same day she was found. The child was then taken to Riruta Police Station where the matter was reported on the same day. The child was then referred to Hope House Babies’ Home for custody, care and treatment, and she was subsequently admitted to the said home on 18th February 2014. The child was formally committed to the custody of Hope House Babies’ Home by the Children’s Court at Nairobi vide P&C No. 141 of 2014. The child was placed in the Applicant’s custody on 27th June 2014. Subsequently, in accordance with **Section 159 of the Children Act**, the child was declared by Buckner Kenya Adoption Services to be free for adoption on 1st October 2014. The certificate of declaring the child free for adoption is Serial No. *[particulars withheld]*.

The Applicant filed an application for adoption on 26th November 2014 seeking, among others, orders from this Court that S O O be appointed the child’s guardian ad litem, and that the Director Children’s Services and the guardian ad litem be ordered to investigate the suitability of the Applicant to adopt the child and submit their respective reports on the same. This Court issued an order on 16th December 2014 appointing S O O as the child’s guardian ad litem, and directing the guardian ad litem and the Director Children’s Services to file their respective reports within 45 days in Court.

Prior to the hearing of the adoption case, the Adoption Society, Buckner Kenya Adoption Services, prepared a report which was filed in court. A certificate dated 1st October 2014 was issued by the Adoption Society declaring the child free for adoption. The Director of Children’s Services also prepared a report which is on the Courts record. The guardian ad litem, S O O, also prepared a report which was filed in court. All the statutory reports on the suitability of the Applicant to adopt the child are favourable and recommend that the Court allows the applicants to adopt the child.

This Court has carefully evaluated the relevant facts of the Applicant’s application for adoption. This is a local adoption. It is evident that the Applicant has fulfilled all the legal requirements pertaining to the adoption of the child. The consent of the child’s biological parents was dispensed with since the child was abandoned shortly after birth, and these parents cannot be traced to give their consent. The Applicant’s husband has accepted the child as his own and is looking to buy real property in Kenya so that they can

live comfortably as a family in Kenya.

This court has satisfied itself that the Applicant is qualified and able to take care of the child. The respective reports on the home visits by the guardian ad litem, the Adoption Society and the Director of the Children's Services indicate that the Applicant and her husband have the financial and emotional capability to provide for the upkeep and education of the child. This is on account of the fact that the Applicant has adequately provided for the child since the child was placed with her and also that the child appeared healthy and well-taken care of.

Moreover, this Court observed the Applicant with the child when both of them attended Court. It was evident that in the period that the Applicant has had the custody of the child, the child has bonded well with her and that they enjoy a loving mother-daughter relationship. The child considers the Applicant to be her parent.

On the basis of a careful examination of the documents presented before the Court and the observations made therein, this Court has formed the opinion that it would be in the best interests of the child to be adopted by the Applicant. The sole Applicant's application for adoption of the child is therefore allowed. In this regard, the Applicant, V M A, is hereby allowed to adopt Baby L.

Henceforth, the child shall be known as H B A. Her date of birth shall be 17th February 2014. Her place of birth shall be Nairobi, Kenya. She is therefore presumed to be a citizen of the Republic of Kenya by birth. Dr. D M K and C W G (a married couple who are friends of the Applicant) shall be the legal guardians of the child should such eventuality arise. I hereby direct the Registrar General to enter this order in the adoption register. The guardian ad litem is hereby discharged. It is so ordered.

DATED AT NAIROBI THIS 27TH DAY OF FEBRUARY 2015

M. MUIGAI

JUDGE