

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI

ADOPTION CAUSE NO 169 OF 2014

IN THE MATTER OF THE CHILDREN ACT

AND

IN THE MATTER OF BABY A F

A W M.....APPLICANT

JUDGMENT

Before me is an application by the Applicant, A W M, seeking to be allowed by this Court to adopt Baby A F. The Applicant, a sole female applicant, is employed by the Government of Kenya under the Ministry of *[particulars withheld]* where she works as a records management officer. The Applicant is single. The Applicant wishes to adopt a child because she wants to provide a home for a needy child. The child, Baby A F (hereafter “the child”), was found abandoned on 18th November 2009 on the side of the road in Kangundo. The child was presumed to have been born on 22nd October 2009. Upon being found the child was taken to Kangundo Police Station where the matter was reported on the same day. The child was then taken to Kangundo District Hospital for care and treatment.

The child was thereafter discharged to Springs of Hope Children’s Centre in Machakos. Subsequently, the Children’s Court at Machakos committed the custody of the child to the said children’s centre on 23rd December 2009. On 28th April 2010, the child was transferred from Springs of Hope Children’s Centre in Machakos to New Life Home in Nairobi to create room for future admissions. The child was committed to New Life Home on the same day by the Children’s Court at Machakos. The child was declared by Kenya Children’s Homes Society to be free for adoption on 8th June 2010 and was subsequently placed in the care of the Applicant on 28th July 2010.

The Applicant filed an application for adoption on 23rd June 2014 seeking, among others, orders from this Court that one I K be appointed the child’s guardian ad litem, and that the Director Children’s services as well as the Chief Administrator, Kenya Children’s Homes be ordered to investigate the suitability of the Applicant to adopt the child and submit their reports on the same. On 18th July 2014, this Court issued an order appointing I K as the guardian ad litem and directing the guardian ad litem and the Director Children’s Services to file their respective reports in Court.

Prior to the hearing of the adoption case, the Adoption Society, Kenya Children’s Home, prepared a report which was filed in court. They also issued a certificate dated 10th July 2014 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, I K, 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 biological daughter has accepted the child as her sister and readily gave her consent for the Applicant to adopt the child.

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 has 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 been able to take care of the child since the child was placed with her. Moreover, this Court observed the Applicant with the child when they 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 it as well as 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, A W M, is hereby allowed to adopt Baby A F.

Henceforth, the child shall be known as F N N. Her date of birth shall be 22nd October 2009. Her place of birth shall be Machakos, Kenya. She is therefore presumed to be a citizen of Kenya by birth. J W M, the Applicant's sister, shall be the legal guardian of the child should such eventuality arise. I 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