



REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA AT NAIROBI
ADOPTION CAUSE NO. 138 OF 2014
IN THE MATTER OF ADOPTION OF BABY A

And

IN THE MATTER OF THE APPLICATION FOR ADOPTION

BY

F M N AND M W M (APPLICANTS)

JUDGMENT

1. The applicants **F M N** and **M W** met in Kangema in 1981 in Gakira and got married in October the same year through Kikuyu Customary Marriage and later on 10th April 2002 they solemnized their marriage in church at Holy Family Basilica. This is the first marriage to both applicants which has not been blessed with a child. The female applicant has unexplained infertility. The applicants' state that they used to live with relatives children and when the children became of age the applicants realised they had been left alone. They seek to be authorised to adopt baby A and upon making the adoption the child be called **A N Mu** and that L N G (sister to female applicant) be appointed the legal Guardian of the child.
2. The child in this matter was born on 14th February 2000. He is said to have been found abandoned within Mathare estate near the Chief's office. The matter was reported to Kamukunji police station vide OB No. 16/26/11/2000 by a good Samaritan named Njeri Mwangi. He was admitted to Missionaries of charity on 26/11/2000. Later on 23rd December 2010 the child was committed to Missionaries of charity for protection and care and issued with committal warrant No. 429/2010. The child was placed with the applicants for mandatory bonding period prior to adoption on 12th August 2013, through duly signed foster care agreement forms from the home dated the same day. He has been continuously in their care and protection since then.
3. The child in this matter is referred by applicants as A. He is now 14 years and eight months old. Applicants reported that A is a healthy and friendly young boy. He relates well with the applicants as parents and is attached to them. He is aware of this proposed adoption and is happy to be adopted by the applicants.
4. It was established that the child in this matter had initially been placed for foster care with a family. He had been given up for fostering to a Ms. A A W, from 2004 to 2009. He was later returned to the home. A report done by Miss Alexandra Muniafu of Muniafu and Company advocates recommended that the children be returned because the client (A W) had been seeing a psychiatrist. The report concluded that the client's motivating factor for her decision to take the children was not love but recommendation from her psychiatrist. The second withdrawal was after the child was rejected by the prospective adoptive mother for unknown reasons.

5. The child A was declared free for adoption by KKPI Adoption Society on 24th April 2013 and issued with a certificate serial number **[particulars withheld]** declaring the child free for adoption was issued. The report from the adoption agency was filed on the 20th June 2014.
6. Applicants have fulfilled all legal requirements relating to the adoption of the child as prescribed in the Children’s Act 2001. The Director of Children’s Services also filed a report on 7th January 2014 as did the guardian ad litem, M K filed in Court on 6th February 2015. Both reports were favourable and recommended the adoption of the child by the applicants.
7. The Adoption Society, guardian ad litem and the Director of Children’s Services have all made home visits and established that the applicants are both financially and emotionally capable to provide for the up keep and education of the child.
8. After a careful assessment of the reports filed herein and from the observation of the interaction of the Applicants and the child during the hearing, this court has formed the opinion that it would be in the best interest of the child to be adopted by the Applicants. The application is therefore allowed. The Applicants **F M N and M W M** are hereby allowed to adopt baby **A** he shall henceforth be known as **A N M. L N** (sister to female applicant) shall be the legal Guardian of the child should misfortune befall the applicants. I direct the Registrar General to enter this order in the adoption register. The child was born in Kenya and is therefore presumed to be a Kenyan by birth and is entitled to all the rights that accrue to Kenyan Citizens under the Kenya Constitution 2010 and the Kenya citizenship and immigration Act. I hereby discharge the Guardian ad litem.

It is so ordered.

Dated signed and delivered this **12th** Day of **March** 2015.

R. E. OUGO

JUDGE

In the Presence of:

.....Applicants

.....Court clerk