

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI

ADOPTION CAUSE NO. 220 OF 2014

IN THE MATTER OF THE CHILDREN ACT, 2001

AND

IN THE MATTER OF BABY G M

C B A.....APPLICANT

JUDGMENT

The Applicant, C B A, is a sole female applicant. She is a lecturer at the *[particulars withheld]*. She has never been married and does not have any biological children. She has an adopted daughter, J K A, whom she adopted in March 2007. Her adopted daughter is 11 years old. The Applicant wishes to adopt another child so as to provide a sibling to her adopted daughter and to expand her family. She therefore seeks by her present application to be allowed by this Court to adopt Baby G M, hereafter “the child”.

The child was found abandoned at Cathedral Road near the Fisheries Department in Meru on 21st April 2013. It was estimated that she was born on 8th April 2013, but the identity of her parents or her place of birth remain unknown. The matter of the abandoned child was reported to Meru Police Station on 21st April 2013 and it was recorded vide OB No. 9/21/04/2013. The child was taken by the police to Meru District Hospital for medical checkup, and thereafter she was admitted to Ripples International New Start Centre children’s home for care and protection. On 2nd August 2013, the Meru Children’s Court committed the custody of the child to the said children’s home vide **P&C No. 57/2013** pending formal adoption proceedings. The child was placed in the custody of the Applicant for mandatory bonding pending the adoption, and this is evidenced by a care agreement form signed by the Applicant and Ripples International New Start Centre. From that time, the child has remained under the continuous custody and care of the Applicant. On 25th June 2014, the child was declared free for adoption by Kenyan to Kenyan Peace Initiative. A certificate, serial no. *[particulars withheld]*, was issued to confirm this.

The Applicant filed an application for adoption on 17th October 2014 seeking, among others, orders from this Court that M M R be appointed as the child’s guardian ad litem, and that the Director of Children’s Services be ordered to investigate the Applicant’s suitability to adopt the child and submit a report. The Applicant also sought to have the Court appoint S O and C O, the Applicant’s sister and brother-in-law respectively, as the child’s legal guardians. They Applicant further sought for an order that upon adoption the child be known as T B A. On 5th November 2014, this Court issued an order appointing M M R as the child’s guardian ad litem, and further directing the guardian ad litem and the Director of Children’s Services to file their respective reports in Court.

Pursuant to **Section 156(1)** of the **Children Act**, before this matter came up for hearing, Kenyan to Kenyan Peace Initiative Adoption Society prepared and filed in Court a favourable report in respect of the proposed adoption of the child by the Applicant. Another report in respect of the proposed adoption of the child by the Applicant was prepared by the Director of Children’s Services, and this report was similarly in favour of the proposed adoption. The guardian ad litem, M M R, also filed the statutory report made under **Section 160(2)** of the **Children Act** in which she noted that the proposed adoption of the child by the Applicant would be in the best interests of the child.

All the statutory reports that have been filed in respect of the proposed adoption of the child by the Applicant have urged this Court to allow the Applicant to adopt the child. This Court has evaluated the

facts of this adoption. This is a local adoption. It is evident that the Applicant has fulfilled all the legal requirements pertaining to the legal adoption of the child. The consent of the biological parents of the child was dispensed with since the child was abandoned at birth and her biological parents could not be traced to give their consent. This Court has satisfied itself that the Applicant is qualified and able to take care of the child. Moreover, the home visits by the guardian ad litem, the adoption society and the Director of the Children's Services established that the Applicant has the financial and emotional capability to provide for the upkeep and education of the child. This Court observed the Applicant with the child in 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. The child considers the Applicant to be her parent.

On the basis of a careful examination of the documents presented before me 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. This Court allows the application for adoption. The Applicant, C B A, is hereby allowed to adopt Baby G M. She shall henceforth be known as T B A. Her date of birth shall be 8th April 2013. Her place of birth shall be Meru County in Kenya. She is presumed to be a citizen of Kenya by birth. S O and C O, the Applicant's sister and brother-in-law respectively, shall be the legal guardians of the child should such eventuality arise. The Registrar General is hereby directed to enter this order in the Adoption Register. The guardian ad litem is hereby discharged. It is so ordered.

DATED AT NAIROBI THIS 10TH DAY APRIL OF 2015

M. MUIGAI

JUDGE