



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI

ADOPTION CAUSE NO. 47 OF 2015 (O.S.)

AND

IN THE MATTER OF CHILDREN'S ACT, No. 8 of 2001

AND

IN THE MATTER OF BABY J

E T W APPLICANT

JUDGMENT

1. The applicant, E T W is a single woman of American citizenry. She has no child of her own. She wishes to adopt the child known as Baby J, a minor of the female sex through Originating Summons dated 16th February, 2015. She is a designer & Director at [particulars withheld]. She resides in Karen and is a Christian of the Catholic denomination.
2. The child who is the subject of these adoption proceedings, was found abandoned by the road side at [particulars withheld]. She was found by a Good Samaritan wrapped in a shawl. The matter was reported and recorded at Runda Police Station vide OB No. [particulars withheld]. On 13th January 2014, the child was admitted to the Nest Children's Home.
3. The child was officially committed to the same home by the Senior Resident Magistrate, Nairobi Children's Court, on 13th August, 2014 vide P&C No. 216/2014. A letter dated 15th September, 2014 from Runda Police Station confirms that the biological parents of the child were not traced nor did anyone come forward to claim the child.
4. The child was declared free for adoption on 24th September, 2014 by the Kenyan to Kenyan Peace Initiative Adoption Society vide certificate No. [particulars withheld]. She was released into the custody of the Applicant for mandatory foster care pending adoption on 17th September 2014. Since then she has been in the continuous custody and care of the Applicant. Prior to the hearing of the adoption application, Kenyan to Kenyan Peace Initiative, Adoption Society prepared and filed a report in court.
5. The Adoption Society, guardian ad litem and the Director of Children's Services have all made home visits and established that the Applicant is medically fit, and is financially and emotionally capable of providing for the up keep and education of the child. The Director of Children's Services filed a report dated 8th May 2015 recommending the adoption for reasons that the child

stands to gain from the opportunities provided by becoming the daughter of the Applicant, as opposed to living all her life in an institution. The guardian ad litem, M/s. L J K also filed a report that was favourable and recommended the adoption of the child by the Applicant. The child was in court during the hearing and appeared to have bonded well with the applicant. She considers her as her parent.

6. A letter dated 15th January, 2015 by the U.S. Citizenship and Immigration Services confirms that the child would be eligible to acquire Citizenship after her adoption in Kenya. In addition, the Rainbow Adoptions International, incl. an agency for Foreign Adoptions in Connecticut U.S.A, has confirmed that it will follow through with post-adoption services for the adopted child and the Applicant if she decides to relocate to the U.S.A.
7. The Applicant is proceeding under local provisions of the CA by virtue of her having been a resident in Kenya since 1999. She has endeavoured to meet foreign residence requirements in accordance with the guidelines formulated by the National Adoption Committee as follows:
 - a. A document from the Criminal Justice Information services, a division of the Federal Bureau of Investigation dated 14th February 2013 indicates that applicant has no criminal records.
 - b. The prospective adoptive mother has been examined by a doctor and found to be medically and healthy enough to take care of the child in this matter. Everything being equal, she should be there to see the child through childhood. But in the event that she is dead or incapacitated, she has appointed legal guardians; C W C (sister), and D G C (her husband), who have signed consent a letter dated 18th December, 2014, to this effect.
 - c. The state of Connecticut, department of Emergency Services and Public Protection, Division of state Police have issued a Certificate of Good Conduct dated 5th November, 2013; it shows that the applicant has no criminal record found.
 - d. She has intentions to reside permanently in Kenya but it is confirmed that in the event that she is required to relocate in the United States, the child would be eligible to acquire citizenship after her adoption.
 - e. Both her parents Me. B A W and P G are in favour of this adoption process by the applicant. Their consent letters dated 18th February, 2014 by the father and 19th February, 2014 by the mother, show that they have been made aware of this adoption process and that they do consent and support the adoption of baby J by the applicant.
 - f. The Applicant has positive recommendation letters both locally and internationally. Locally she has been recommended by D M in a letter dated 26th February, 2014 and internationally by B O' from New York in her letter dated 1st November, 2014. Both letters show that the applicant is capable of taking care of the child in this matter.

Locally,

- g. She was found to be a suitable adoptive parent by Kenyan to Kenyan Peace Initiative Adoption Society, which is a duly registered local adoption society. K.K.P.I completed a positive home study report on the applicant and have undertaken to do post adoption supervision on the applicant and child.

- h. She is a designer by profession and the Director of a fashion and design Company in Kenya known as [particulars withheld], a company she registered on 24th February, 2005 as indicated by the certificate of incorporation No. [particulars withheld].

- i. She was assessed by the Kenyan Police and found to have no criminal record. Certificate of Good Conduct No. [particulars withheld] dated 19th January 2015 relates to her.
- j. She has been resident in Kenya for over fifteen years since 1999.
- k. The manager Nest Children’s Home has consented to release the child for the purposes of this adoption in a release letter dated 17th September, 2014.

8. From the foregoing this court is satisfied that all the legal requirements for an international adoption have been met. Consequently I make the following orders:

- a. That the Applicant, E T W be and is hereby allowed to adopt the child, Baby **J**, who shall be hereinafter known as **M L N**;
- b. Her date of birth shall be presumed to be 12th January 2014. She shall be presumed to have been born in Kenya and the place of birth shall be Nairobi.
- c. C W C and D G C the Applicant’s sister and brother-in-law respectively, are hereby appointed the legal guardians of the child, should the Applicant die or become permanently incapacitated before the child attains the age of majority.
- d. The Registrar-General is directed to enter this adoption order in the Adoption Register;
- e. The Director of Immigration is hereby authorised to issue the child with a Kenyan passport.

The guardian ad litem is hereby discharged.

It is so ordered.

SIGNED DATED and DELIVERED in open court this **28th day of July 2015.**

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L. A. ACHODE

JUDGE