

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI

ADOPTION CAUSE NO 242 OF 2014

IN THE MATTER OF THE CHILDREN ACT

AND

IN THE MATTER OF BABY A U alias BABY T alias ABANDONED BABY BOY

G K K1ST APPLICANT

F M M2ND APPLICANT

JUDGMENT

The Applicants, G K K (“the 1st Applicant”) and F M M (“the 2nd Applicant”), seek by their application to be allowed by this Court to adopt Baby A U alias Baby T alias A B B (hereafter “the child”). The Applicants are husband and wife. They celebrated their customary marriage in 2008 and formalized the same on 17th July 2013 at the Office of the Registrar in Nairobi. The 1st Applicant is currently employed by [*particulars withheld*] as a Lab assistant while the 2nd Applicant is a stay at homemaker. Both Applicants live together in Nairobi. Their marriage has not been blessed with any children due to medical reasons. Thus, they wish to adopt a child.

The child who is the subject of the present adoption proceedings is presumed to have been born on 11th March 2013. He was found abandoned by a good samaritan in Ruiru. He was then taken to Ruiru Sub-District Hospital for medical examination. A report on the matter of the abandoned child was made at Ruiru Police Station and the same was recorded vide OB No. 49/12/03/2013. The child was then referred to New Life Children’s Home for care and protection, and this is evidenced by the child’s admission form into the said home.

The Senior Resident Magistrate Children's Court sitting at Thika, in accordance with **Section 119** of the **Children Act**, committed the child to New Life Children’s Home on 17th April 2013 vide **P&C No 88/2013**. The child was placed in the custody of the Applicants on 27th March 2014 for mandatory bonding prior to adoption. The child has since then been in the continuous custody and care of the Applicants. According to correspondence from relevant police authorities in Ruiru, no one has come forward to claim the child. A report to that effect has been filed in Court. Thus, this Court dispenses with the consent of the child’s biological parents to the proposed adoption of the child by the Applicants. Little Angels Network, an adoption society, issued a certificate declaring the child free for adoption pursuant to **Section 156(1)** of the **Children Act**. The said freeing certificate is no. [*particulars withheld*] and the same is dated 26th March 2014.

In an application filed on 1st December 2014, the Applicants sought among others, orders from this Court that S O O be appointed as the child’s guardian ad litem, and that the Director of Children’s Services be ordered to investigate the suitability of the Applicants to adopt the child and submit a report. In an application filed on 16th October 2014, The Applicants also sought to have the Court appoint J M M, a brother of the 2nd Applicant, as the child’s legal guardian. They further sought for an order that upon adoption the child be known as C B. On 6th February 2015, this Court issued an order appointing S O O 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, Little Angels Network, the relevant adoption society, prepared and filed in Court a favourable report in respect of the proposed adoption of the child by both Applicants. Another report in respect of the proposed adoption of the child by the Applicants was prepared by the Director of Children's Services, and this report was similarly in favour of the proposed adoption. The guardian ad litem, S O O, 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 Applicants 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 Applicants have recommended that this Court allows the joint Applicants to adopt the child. This Court has evaluated the facts of this adoption. This is a local adoption. It is evident that the Applicants have fulfilled all the legal requirements relative to the adoption of the child. The consent of the biological parents of the child was dispensed with since the child was abandoned at birth, and his biological parents could not be traced to give their consent. This Court has satisfied itself that the Applicants are qualified and able to take care of the child. The home visits by the guardian ad litem, the Adoption Society and the Director of the Children Services established that the Applicants have the financial and emotional capability to provide for the upkeep and education of the child. This Court observed the Applicants with the child in Court and it was evident that in the period that the Applicants have had the custody of the child, the child has bonded well with them. The child considers the Applicants to be his parents.

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 interest of the child to be adopted by the Applicants. Hence, this Court allows the Applicants' application. The Applicants, G K K and F M M, are hereby allowed to adopt Baby A U alias Baby T alias A B B. Henceforth, the child shall be known as C B. His date of birth shall be 11th March 2013. His place of birth shall be Ruiru, Kenya. He is presumed to be a citizen of Kenya by birth. J M M, a brother of the 2nd Applicant shall be the legal guardian of the child should such eventuality arise. This Court directs the Registrar General to duly 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 OCTOBER 2015

M. W. MUIGAI

JUDGE