



REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA AT NAIROBI
ADOPTION CAUSE NO 16 OF 2015
AND
IN THE MATTER OF CHILDREN'S ACT 2001
AND
IN THE MATTER OF BABY T- MINOR
JE D Y F M.....1ST APPLICANT
N P N M2ND APPLICANT

JUDGMENT

1. The applicants herein **J D Y F M** and **N P N M** seek to be allowed to adopt baby T and should the application be allowed the child to be called **T G J D**. The applicants were born on 18th July, 1970 and 29th August 1971 respectively and got married in United Republic of Tanzania on 1st July 2007 and were blessed with on child **T H J** who is currently 6 years old. The 1st applicant an employee with [*particulars withheld*] was transferred to Nairobi in 201. The couple approached Happy Life home who placed the minor under their custody or foster care pending adoption on 30th September, 2014 and desire to adopt the minor.

2. The minor they seek to adopt was born at Mbagathi District Hospital on 25th May 2013 was premature weighing 1.9kgs and was abandoned by her mother in the maternity ward. The matter was reported at Kenyatta Police post under OB no. 12/24/06/2013 and alter admitted to Happy Life Children's home on 10th July 2013. Efforts to trace the mother was futile as per the police final letter dated 6th March 2014. The minor stayed in the said home until 30th September 2014 when she was placed under the care and control of the applicants who have continued to take care of her to-date.

3. Buckner Adoption Agency, a registered adoption society having assessed the applicants declared the child free for adoption following the committee sitting on 25th September 2014 and issued with a certificate of declaring a child free for adoption serial no. [*particulars withheld*]. In their report filed on 3rd February 2015 the adoption agency observes that the applicants are 44 and 43 years old and have not attained the age of 65 years as per the requirements of section 158(3) of the Children's Act and wish to adopt a minor of 8 months to 2 years are looking forward to integrate the child into their family. The applicants are also financially capable of taking care of the minor without strain. The Adoption society recommends the applicants to be allowed to adopt the minor.

4. The applicants herein via their application dated 8th July 2015 sought the court's intervention to dispense with the Director of Children's Services report which had been unduly withheld by the Director of Children services. This court in its ruling of 2nd October 2015 upon scrutiny of the supporting documents and the provisions of the law dispensed with the Directors of Children's Services report.

5. The Ministry of Foreign Affairs and international development in charge of the administration of French nationals living abroad and consular administration via its letter dated 4th August 2014 acknowledges the 1st applicants intention to adopt a child in Kenya. It recognizes the said adoption and commits that should the child return to France with the applicants she will be monitored by its social services to ensure her wellbeing.

6. The applicants have satisfied the court that they have fulfilled the legal requirements regarding the adoption, including having custody of the child for a sufficient period to enable bonding to take place. The provide period is 3 months and the applicants have had the custody of the child since 30th September 2014. I note that at the time the applicants received baby T in their custody they had been resident in the country from 2011. They have been in Kenya for over 3 years and qualify to adopt as foreign residence (see guidelines for foreign residents by the adoption committee dated the 23/4/2009). Their reasons for adopting baby T is that they desire to have more children but they have not been able to do so. Baby T was found abandoned and they have since the placement taken care of her.

7. It was clear to this court that it would be in the best interest of the child for the application for adoption to be allowed. The applicants have given an undertaking that they shall allow access to the approved adoption society in their country of origin to undertake post-adoption supervision for a period of three years from the time of the issuance of this adoption order.

8. The applicants, **J D Y F M** and **N PN M** are hereby authorized to adopt baby T. The child shall henceforth be known as **T G J-D. H M**, the 2nd applicant's sister is hereby appointed as the legal guardian of the child should misfortune befall the applicants. The Registrar General is hereby directed to enter this order in the Adoption Register. The child was born in Kenya and is therefore a Kenya by birth and is entitled to all rights that accrue to Kenyan citizens under the Constitution 2010 and the Kenya Citizen and Immigration Act. The guardian ad litem is hereby discharged. It is so ordered.

Dated, signed and delivered this **22nd** day of **October** 2015.

R. E. OUGO

JUDGE

In the presence of;

.....**For the Applicants**

Ms. Charity Court Clerk