



**REPUBLIC OF KENYA**

**IN THE HIGH COURT OF KENYA AT NAIROBI**

**ADOPTION CAUSE NO 212 OF 2014**

**IN THE MATTER OF THE CHILDREN ACT**

**AND**

**IN THE MATTER OF BABY J N (MINOR)**

**M W M .....APPLICANT**

**JUDGMENT**

M W M (“the Applicant”) seeks by her application filed on 16<sup>th</sup> September 2014 to be allowed by this Court to adopt Baby J N (hereafter “the child”). The Applicant is a teacher by profession. She has never been married. She does not have any children of her own due to medical reasons. It is for this reason that she wishes to adopt a child. The child who is the subject of the present adoption proceedings was found abandoned on 18<sup>th</sup> June 2013 at [particulars withheld] Estate within Nakuru County. She was presumed to have been born on 20<sup>th</sup> January 2012. A report on the matter of the abandoned child was made to Central Police Station, Nakuru and the same was recorded vide OB[particulars withheld] 2013. The District Children Office, Nakuru was informed of the incident and managed to secure temporary placement for the child at Haven of Hope Baby Centre where the child was admitted on 20<sup>th</sup> June 2013 for care and protection. The Children's Court sitting at Nakuru, in accordance with **Section 119** of the **Children Act**, committed the child to the said children’s home on 21<sup>st</sup> June 2013 vide **P&C No [particulars withheld] /2013**. The child was placed in the custody of the Applicant on 25<sup>th</sup> March 2014 for mandatory bonding prior to adoption. The child has since then been in the continuous custody and care of the Applicant. According to correspondence from relevant police authorities at Central Police Station, Nakuru no one has come forward to claim the child. A report to that effect dated 8<sup>th</sup> January 2014 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 Applicant. The Kenya Children’s Homes, 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. 1053 and the same is dated 12<sup>th</sup> March 2014.

In her application filed on 16<sup>th</sup> September 2014, the Applicant sought among others, orders from this Court that L W N be appointed as the child’s guardian ad litem, and that the Director of Children Services be ordered to investigate the suitability of the Applicant to adopt the child and submit a report. The Applicant also seeks to have the Court appoint P M G and J N M, the Applicant’s brother-in-law and sister respectively, as the child’s legal guardians. On 24<sup>th</sup> October 2014, this Court issued an order appointing L W N as the child’s guardian ad litem, and further directing the guardian ad litem and the Director of Children Services to file their respective reports in Court.

Pursuant to **Section 156(1)** of the **Children Act**, before this matter came up for hearing, the Kenya Children’s Homes, the relevant 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 Services, and this report was similarly in favour of the proposed adoption. The guardian ad litem, L W N, 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 recommended that this Court allows 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 relative to the adoption of the child. The consent of the biological parents of the child was dispensed with since the child was abandoned 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. The home visits by the guardian ad litem, the Adoption Society and the Director of the Children 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 and 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 mother.

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 Applicant. Hence, this Court allows the Applicant's application. The Applicant, M W M , is hereby allowed to adopt Baby J N. Henceforth, the child shall be known as J W W. Her date of birth shall be 20<sup>th</sup> January 2012. Her place of birth shall be Nakuru-Kenya. She is presumed to be a citizen of Kenya by birth. P M G and J N M, the Applicant's brother-in -law and sister respectively shall be the legal guardians 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 11<sup>TH</sup> DAY OF DECEMBER, 2015**

**M. W. MUIGAI**

**JUDGE**