



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI

ADOPTION CAUSE NO. 108 OF 2015 (OS)

IN THE MATTER OF THE CHILDREN'S ACT NO. 8 OF 2001

AND

IN THE MATTER OF ADOPTION OF BABY G

BY

J P A B AND F M B (APPLICANTS)

JUDGMENT

1. The Applicants, J P A B and F M B are of French and German origin respectively. They are in a monogamous marriage which was solemnized at [particulars withheld] Berlin-Kaulsdore on 23rd August, 2008. They have an adopted male child namely B M B aged five years. They have brought an Originating Summons dated 20th April 2015, seeking permission to adopt **Baby G**, an infant of male sex. J P A B is the Head of [particulars withheld], while F M B is an Advisor for [particulars withheld]. They reside in Kileleshwa and are both Christians.
2. The child who is the subject of this adoption proceedings was found abandoned at infancy within [particulars withheld] in Nairobi on 31st August 2013 and rescued by a Good Samaritan who reported the matter to Huruma Police Station and an entry made vide OB No. [particulars withheld]. The child was admitted to Child at Missionaries of Charity, Mother Teresa Home for care and protection. On 11th October 2013 the child was officially committed to the same Children's Home by the Senior Resident Magistrate Children's Court Nairobi, vide P&C Case No. 362/2013. A letter dated 23rd July 2014 from Huruma Police Station confirms that no one has gone to claim or inquire after the child.
3. The child was declared free for adoption on 29th October, 2014 by the Kenyan to Kenyan Peace Initiative, an Adoption Society vide certificate No. [particulars withheld]. He was released into the custody of the Applicants for mandatory foster care pending adoption on 7th November 2014. Since then he has been in the continuous custody and care of the Applicants. Prior to the hearing of the adoption application, Kenyan to Kenyan Peace Initiative an adoption Society prepared and filed a report in court.
4. The Adoption Society and guardian ad litem have all made home visits and established that the Applicants are financially and emotionally capable of providing for the up keep and education of the child. The guardian ad litem, M/s. Monica Njeri Gachuru filed a report that was favourable and recommended the adoption of the child by the Applicants.
5. The Director of Children's Services who cited the moratorium on foreign adoption by the Cabinet, did not file a report. A certificate of the French Ministry of Foreign Affairs and International Development

dated 9th April 2014 confirmed that France will recognize the Adoption Orders of this court and grant the child French citizenship.

6. The proposed adoption also received approval by the Kenyan to Kenyan Peace Initiative an Adoption Society. When the Director Children Services declined to provide a report to the court, an application dated 20th July 2015 was brought before the court. Upon consideration and on the basis of the best interest of the child, the court ordered in a ruling dated 9th October 2015, that the report of the Director of Children Services could be dispensed with in the circumstances of this cause.

7. The child was in court during the hearing and appeared to have bonded well with the Applicants. He was jovial and clearly considered the Applicants as her parents.

8. From the foregoing I am satisfied that all the legal requirements for an international adoption have been met, and consequently I will make the following orders:

a) That the Applicants, **JPAB** and **FMB**, are hereby allowed to adopt Baby **G** who shall henceforth be known as **G B Bo**.

b) His date of birth shall be presumed to be 30th August 2013.

c) He is presumed to have been born in Kenya and the place of birth shall be Nairobi.

d) The child is presumed to be Kenyan by birth.

e) C H and JHH (sister and brother in law of the female Applicant) respectively are hereby appointed as the legal guardians of the child, should the Applicants die or become permanently incapacitated before the child attains the age of majority.

f) The Registrar-General is directed to enter this adoption order in the Adoption Register;

g) 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.

DATED, SIGNED and DELIVERED at NAIROBI this 4th DAY OF December, 2015.

L. A. Achode

JUDGE