



REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA AT NAIROBI
ADOPTION CAUSE NO. 190 OF 2014 (OS)
IN THE MATTER OF THE CHILDREN'S ACT NO. 8 OF 2001
IN THE MATTER OF ADOPTION OF BABY BOY P W

BY

H J W M (APPLICANT)

JUDGMENT

1. The Applicant H I W M is a Kenyan citizen. She is single and has no child of her own. She wishes to adopt the child known as Baby Boy P W, a minor of the male sex through the Originating Summons dated 4th July 2014. The Applicant indicates that she is an IT Consultant with *[particulars withheld]* Foundation. She resides along State House road.
2. The child who is the subject of this adoption was born on 10th January 2012. He was abandoned by his mother at infancy at the Nyeri Provincial Hospital babies' nursery. He was born prematurely and had low birth weight and respiratory distress. The matter was reported to Nyeri Police Station, via OB No. 44/15/3/2012. He was later referred to New Life Children's Home on 2nd March 2012 for care and protection. On 9th March 2012 the Resident Magistrate's court at Nyeri committed the child to the same home vide P&C Case No. 22/2012. A letter from Nyeri Police Station dated 8th October 2012 asserts that the biological parents of the child were not traced nor did anyone come forward to claim the child.
3. On 2nd May 2014 the child was discharged from New Life Children's Home and placed in the care of the Applicant with a view of adoption. The Applicant also signed a Foster Care Agreement dated the same day. Since then the child has been in the continuous custody and care of the Applicant.
4. Prior to the hearing of the adoption application, Little Angels Network, an adoption society prepared and filed a report in court. They also issued a certificate No. 001451 dated 30th April 2014 declaring the child free for adoption. The guardian ad litem, M/s. H N K M filed a report dated 17th September 2015 which was favourable and recommended the adoption of the child by the Applicant.
5. The Director of Children's Services has also made home visits and established that the Applicant is financially and emotionally capable of providing for the up keep and education of the child. She filed a report dated 8th July, 2015 recommending the adoption for reasons that the child stands to gain from the opportunities provided by becoming the son of the Applicant as opposed to living all his life in an institution.

6. The child was in court during the hearing and appeared to have bonded well with the Applicant. He was jovial and clearly seemed to trust the Applicant and regarded her as his parent. The Applicant's family members are aware of this adoption and support it.
7. After a careful assessment of the reports filed herein and from the observation of the interaction of the Applicant and the child during the hearing, this court has formed the opinion that it would be in the best interest of the child to be adopted by the Applicant. The Applicant being aged 51 years old, she is older than the child by more than 21 years as required by the law.
8. I note that the Applicant is a sole female Applicant who seeks to adopt a male child. Under **Section 158(2) Children's Act** an adoption order shall not be made in favour of a sole female Applicant in respect of a male child unless the court is satisfied that there are special circumstances to justify the making of the order. The special circumstances given herein are that the child was born prematurely and suffered respiratory distress and later experienced delayed milestones. The Applicant's attention and care have enabled him to be stable and healthy.
9. In view of the foregoing I allow the prayers sought in the Originating Summons dated 4th July 2014 and order as follows:
 - i. The Applicant, H J Wangui Muniu is hereby allowed to adopt Baby Boy P W who shall henceforth be known as **E K M M**.
 - ii. His date of birth shall be presumed to be 10th January, 2012. He is presumed to have been born in Kenya and the place of birth shall be Nyeri.
 - iii. C E K-M (sister to the Applicant) is hereby appointed legal guardian of the child in the event that the Applicant dies or is incapacitated by ill-health.
 - iv. I direct the Registrar General to enter this order in the Adoption Register.
 - v. The Director of Immigration is hereby authorised to issue the child with a Kenyan passport.
 - vi. The guardian ad litem is hereby discharged.

It is so ordered.

SIGNED DATED and DELIVERED in open court this **4th day of December 2015**.

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L. A. ACHODE

JUDGE