

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI

ADOPTION CAUSE NO. 218 OF 2013

IN THE MATTER OF THE CHILDREN ACT, 2001

AND

IN THE MATTER OF BABY

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IN THE MATTER OF BABY B W I- MINOR

H D W.....1ST APPLICANT

A C G.....2ND APPLICANT

J U D G M E N T

The applicants, H D W and A C G, are husband and wife. They were married on 22nd August 2003 in Germany. The 1st Applicant is a German national while the 2nd Applicant is a Dutch national. The 1st Applicant is employed as an Associate Country Director with *[particulars withheld]* while the 2nd Applicant is a stay at home mother. The Applicants have been blessed with three (3) biological children. They have been residents in Kenya since 15th August 2007. They have therefore made this application as foreign residents in Kenya. This is under the Rule that allows foreigners who have lived in Kenya for a period of more than three (3) years to adopt a child as such. The applicants wished to adopt a child. Baby B W I (the child) was presumed to have been born on 16th November 2011. The child was found abandoned at Njoro industrial area near the railway line 20th January 2012. A report of the abandonment was made to Njoro Police Station. The child was taken to Haven of Hope Baby Centre for care and protection. She was committed by the Nakuru Children's Court to the custody of the said Children's Home on 24th January 2012 pending formal adoption proceedings. The Applicants were given custody of the child for mandatory foster care pending adoption pursuant to a foster care agreement which was signed on 19th June 2012. They took custody of the child on the same day. Since then, the child has been in the continuous custody and care of the applicants.

Prior to the hearing of the adoption, the Adoption Society, Little Angels Network, prepared a report which is filed in court. They also issued a certificate declaring the child free for adoption. The certificate is dated 19th June 2013. The Director of Children's Services prepared a report which is on record. The guardian ad litem, J C K N, prepared a report which has been filed in court. All the reports are favourable and recommend that the court allows the applicants to adopt the child. I have evaluated the facts of this adoption. This is an adoption by foreign residents in Kenya. It is evident that the applicants have fulfilled all the legal requirements pertaining 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. They cannot be traced to give their consent. This court is satisfied 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 that the applicants with the child in court. 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 his parents.

This court formed the opinion that it would be in the best interest of the child to be adopted by the applicants. I allow the applicants' application for adoption. The applicants, H D W and A C G, are hereby allowed to adopt Baby B W I. Henceforth, the child shall be known as Z B W. Her date of birth shall be 16th November 2011. Her place of birth shall be Njoro, Nakuru- Kenya. B I T and M J T, sister and brother in-law of the 1st applicant shall be the legal guardians of the child should such eventuality arise. I direct the Registrar General to enter this order in the adoption register. I hereby discharge the guardian ad litem. It is so ordered.

DATED AT NAIROBI THIS 28TH DAY OF FEBRUARY, 2014

L. KIMARU

JUDGE