

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI

ADOPTION CAUSE NO. 231 OF 2012

IN THE MATTER OF THE CHILDREN ACT, 2001

AND

IN THE MATTER OF BABY M N alias F

E N1ST APPLICANT

C W N.....2NDAPPLICANT

J U D G M E N T

The applicants, E N and C W N, are husband and wife. They were married 22nd December 2009 under the **Marriage Act**. The 1st applicant works at [*particulars withheld*] College while the 2nd applicant is a Business Woman. The applicants have not been blessed with children of their own due to medical reasons. They wish to adopt a child. They have applied to this court to be allowed to adopt baby M N alias F (the child). The child was born on 1st September 2009. He is the son of J M N (a minor). The child's biological father is unknown as the biological mother is said to have been defiled. He was given up for adoption to Mama Ngina Children's Home through Child Welfare Society of Kenya, an adoption society, by her biological mother on 3rd September 2009. She cited her inability to raise the child as the reason she was offering the child for adoption. The mother and grandmother of the child executed consents before an advocate on 4th November 2009 giving up the child for adoption. 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 January 2010. They took custody of the child on the same day. Since then, the child has been in the custody and care of the applicants.

Prior to the hearing of the adoption, the Child Welfare Society of Kenya, an adoption society, prepared a report which is filed in court. They also issued a certificate declaring the child free for adoption. The certificate is dated 6th June 2012. The Director of Children's Services also prepared a report which is on record. The guardian ad litem, A W G, 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 a local adoption. It is evident that the applicants have fulfilled all the legal requirements pertaining to the adoption of the child. The consent of the biological mother was obtained on 4th November 2009. 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, E N and C W N, are hereby allowed to adopt Baby M N alias F. Henceforth, the child shall be known as F K N. His date of birth shall be 1st September 2009. His place of birth shall be Langata Health Centre, Nairobi- Kenya. He is presumed to have been born in Kenya. A W G, shall be the legal guardian 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 MARCH, 2014

L. KIMARU

JUDGE