



REPUBLIC OF KENYA

HIGH COURT OF KENYA AT NAIROBI

ADOPTION CAUSE NO. 264 OF 2013 (OS)

AND

IN THE MATTER OF THE CHILDREN'S ACT

(NO. 8 OF 2001)

AND

IN THE MATTER OF BABY B

alias ABANDONED BABY GIRL

JUDGEMENT

1. The applicants, J T de V and K M de V-D, are a married couple of Dutch origin. They have brought an Originating Summons dated 5th November 2013 seeking permission to adopt Baby B[minor] alias Abandoned Baby Girl.
2. Baby B alias Abandoned Baby Girl, the subject of these adoption proceedings, is an abandoned female child. She was abandoned by her biological mother under a bed on the floor of a lodging house immediately after birth. A report was made to the Kamukunji Police Station on 8th February 2012. It is presumed that she was born on 8th February 2012. Efforts to trace her parents were not fruitful. The Children's Court committed her to the Missionaries of Charity for care and protection, from where she was placed with the applicants on 14th August 2013. There is sufficient documentation which supports this background prepared by and filed in court on 18th October 2012 by the Little Angels Network dated 22nd May 2013. The Little Angels Network freed the child for adoption by their certificate dated 22nd May 2013.
3. To facilitate the adoption the applicant has been assessed by the Director of Children Services and the guardian *ad litem*, J M, both of whom have compiled and filed reports in court. The report by the Director of Children Services is dated 17th February 2013, while that by the guardian *ad litem* is undated. There is also an international adoption home study report by the Ministry of Justice, Child Welfare Council, Gelderland Region, Arnhem Office, The Netherlands, dated 16th July 2012.
4. All these reports are favourable and recommend the proposed adoption. The applicants have demonstrated that they have the financial and emotional capability and capacity to take care of the child. The child appears to have bonded well with the applicants and considers them to be her parents. I also note that the applicants had previously adopted a child from Kenya who is said to have thrived under them.

5. This proposed adoption has been approved by the State Secretary of Security and Justice in accordance with the Dutch law. There is a certificate of consent is dated 27th July 2012. According to the said Ministry's Statement of Approval of the proposed adoption dated 22nd July 2013, an adoption, such as this which is done in conformity with the 1993 Hague Convention, the child so adopted will be authorised to enter and reside permanently in the Netherlands. The proposed adoption has also received local approval through the National Adoption Committee of Kenya, which has issued a certificate dated 23rd May 2013.
6. The applicants have also identified persons who would step in and act as legal guardians in the event of misfortune, such as death or incapacity, befalling both of them prior to the child reaching the age of majority. The proposed legal guardians, R A de V and J D B, have executed the requisite letter of consent, which are attached to this Summons, dated 26th September 2012.
7. In the opinion of this court it would be in the interests of the child that the child is adopted by the applicants. The applicants will be able to provide a home and a family for the child to grow up in and thereafter be a useful member of the family. Consequently, the applicants shall assume all parental rights and duties of the biological parents in respect of the adopted child; they shall treat the adopted child as if she was born to them. The applicants have been made aware that once the adoption order is made it shall be final and binding during the lifetime of the child and that the child shall have the right to inherit their property. The applicants cannot give up the child owing to any subsequent unforeseen behaviour or other changes in the child.
8. I am satisfied that all the legal requirements for an international adoption have been met. The court allows the applicants' application to adopt the child. The applicants, J T de V and K M de V-D, are hereby allowed to adopt the child, Baby B alias Abandoned Baby Girl, who shall be hereafter known as B T de V[minor]. R A de V and J D B shall be the legal guardians of the child should misfortune befall the applicants. The Registrar-General is directed to enter this adoption order in the adoption register. The guardian *ad litem* is hereby discharged.
9. As the child was found abandoned in Nairobi Kenya, it shall be presumed that she was born Kenyan of Kenyan parents and she therefore be presumed to be Kenyan by birth. She is entitled to all the rights that accrue to Kenyan citizens under the Kenya Constitution 2010 and the Kenya Citizenship and Immigration Act, including the right to be issued with a Kenyan passport.

DATED, SIGNED and DELIVERED at NAIROBI this 21st DAY OF March, 2014.

W. MUSYOKA

JUDGE