



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT MILIMANI

ADOPTION CAUSE NO. 82 OF 2013 (OS)

AND

IN THE MATTER OF THE CHILDREN'S ACT

(NO. 8 OF 2001)

AND

IN THE MATTER OF BABY T B

JUDGEMENT

1. J K M is a single applicant, who is Kenyan citizen. She seeks to adopt a Kenyan male child, known for the purposes of these proceedings as Baby T B. Her Originating Summons is dated 21st February 2013.
2. Baby T B was abandoned at Thika Level 5 general hospital on 28th September 2011 by his biological mother immediately after birth on the same day. A report of the matter was made at the Thika Police Station on 4th October 2011. The Children's Court committed him to the Mama Ngina Children's Home for care and protection. He was placed with the applicant on 20th July 2012.
3. This adoption is being arranged by the Child Welfare Society of Kenya, who freed the child for adoption vide their certificate dated 25th February 2013.
4. To facilitate this adoption, the applicant has been assessed by the Child Welfare Society of Kenya, the Director of Children Services and the guardian *ad litem*, F D A O. The three have compiled and filed their reports in court, dated 25th February 2013, 1st October 2013 and 15th October 2013, respectively.
5. All these reports are favourable and recommend the proposed adoption. The applicant has filed documents that demonstrate that she has the financial and emotional capability and capacity to take care of the child. The child appears to have bonded well with her and he considers her to be her parent.
6. In the opinion of this court it would be in the best interests of the child that he is adopted by the applicant. The applicant 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 applicant shall assume all

parental rights and duties of the biological parents in respect of the adopted child; she shall treat the adopted child as if she was born to her. The applicant has 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 her property. The applicant cannot give up the child owing to any subsequent unforeseen behaviour or other changes in the child.

7. I have noted that this is a case of a single female applicant seeking to adopt a male child. Counsel for the applicant has argued that special circumstances do exist for the adoption of the subject child by the applicant. The applicant is not strictly speaking single in the sense of having never married, but is a widow whose husband died just before the process of adoption started. I note that the child has been with the applicant now and it would in his best interests that the adoption process be allowed to go through.
8. I am satisfied that all the legal requirements for a local have been met. The consent of the biological parents of the child is hereby dispensed with. In the end I make the following final orders:-
 - a. That the applicant, J K M, is hereby allowed to adopt the child, Baby T B, who shall hereafter be known as T M M;
 - b. That the child shall be presumed to have been born in Kenya and is therefore Kenyan by birth as he was found abandoned within the Kenyan boundaries. He is entitled to all the rights that accrue to citizens under the Constitution of Kenya 2010 and the Kenya Citizenship and Immigration Act.
 - c. That F N is hereby appointed the legal guardian of the child in the event of the untoward happening to the applicant;
 - d. That the Registrar-General is directed to enter this adoption order in the adoption register; and
 - e. That the guardian *ad litem* is hereby discharged.

DATED, SIGNED and DELIVERED at NAIROBI this 11th DAY OF April 2014.

W MUSYOKA

JUDGE

In the presence of advocate for the applicants.