

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI

ADOPTION CAUSE NO. 156 OF 2010

IN THE MATTER OF THE CHILDREN ACT, 2001

AND

IN THE MATTER OF BABY F M - MINOR

W N G.....1st Applicant

N N K.....2ND APPLICANT

J U D G M E N T

The Applicants, W N G and N N K, are husband and wife. They were married on 31st October 1998. The 1st and 2nd Applicants are nurses employed at [particulars withheld] respectively. The Applicants have been blessed with one (1) child, a daughter born on 9th January 2002. They have applied to this court to be allowed to adopt baby F M (the child). The child was presumed to have been born on 1st November 2008. She was found abandoned on 3rd November 2008 at a room in [particulars withheld] within [particulars withheld]. A report was made on the same day to Embakasi Police Station. The child was placed with [particulars withheld] for care and protection. The Nairobi Children's Court committed the custody and care of the child to the said Children's Home on 23rd February 2009 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 24th July 2009. 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, Kenya Children's Home, 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 14th July 2009. The Director of Children's Services has also prepared a report which is on record. The guardian ad litem, E C 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 a local adoption. It is evident that the Applicants have fulfilled all the legal requirements relating 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 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 her 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, W N G and N N K, are hereby allowed to adopt Baby F M. Henceforth the child shall be known as J W N. Her date of birth shall be 1st November 2008. Her place of birth shall be [particulars withheld], Kenya. The child is therefore presumed to have been born in Kenya. D K G and V N N, the brother and sister in law to 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 9TH DAY OF APRIL, 2014

L. KIMARU

JUDGE