

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA

AT NAIROBI

ADOPTION CAUSE NO. 144 OF 2013

IN THE MATTER OF THE CHILDREN ACT, 2001

AND

IN THE MATTER OF BABY A N- MINOR

C M N.....1ST APPLICANT

A W M.....2ND APPLICANT

J U D G M E N T

The applicants, C M N and A W M, are husband and wife. They were married on 12th August 1995. Both applicants are Missionaries working with *[particulars withheld]* International Ministries. The Applicants have not been blessed with children of their own due to medical reasons. They have previously adopted another child through an adoption order issued by this court on 8th July 2011. They wish to adopt the present child so that their adopted son can have a brother. They have applied to this court to be allowed to adopt baby A N (the child). The child was presumed to have been born on 20th April 2010. He was found abandoned in Njoro area within Nakuru on 24th April 2010. A report was made on the same day to Njoro Police Station. The child was placed with Africa Gospel Church Baby Center, for care and protection. He was committed by the Nakuru Children's Court to the custody of the said Children's Center on 12th May 2010 pending formal adoption proceedings. The Applicants were given custody of the child for mandatory foster care pending adoption pursuant to a foster care agreement signed on 18th December 2012. They took custody of the child on the same day. Since then, the child has been in the continuous care and custody of the applicants.

Prior to the hearing of the adoption, the Adoption Society, Kenya Children's Homes, prepared a report which is filed in court. They also issued a certificate declaring the child free for adoption. The certificate is dated 13th November 2012. The Director of Children's Services prepared a report which is on record. The guardian ad litem, B F L, 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 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 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, C M N and A W M, are hereby allowed to adopt Baby A N. Henceforth, the child shall be known as S W M. His date of birth shall be 20th April 2010. His place of birth shall be Njoro, Nakuru- Kenya. He is presumed to be a

Kenyan citizen by birth. J K N and T W G, the brother and sister-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 31ST DAY OF JULY, 2014

L. KIMARU

JUDGE