



**REPUBLIC OF KENYA**

**IN THE HIGH COURT OF KENYA AT MILIMANI**

**ADOPTION CAUSE NO. 255 OF 2013 (OS)**

**AND**

**IN THE MATTER OF THE CHILDREN'S ACT**

**(NO. 8 OF 2001)**

**AND**

**IN THE MATTER OF BABY P O K (JUNIOR)**

**JUDGEMENT**

1. M A O is a single female applicant, who is Kenyan citizen. She seeks to adopt a Kenyan male child, known for the purposes of these proceedings as Baby P O K (Junior). Her Originating Summons is dated 28<sup>th</sup> October 2013.
2. Baby P O K (Junior) was born on 3<sup>rd</sup> March 2009 to a daughter of the applicant, therefore making him a grandchild of the applicant. The mother of the child is retarded and hence incapable of taking care of him and also of her own self. She conceived the child in a rape incident. She has no attachment to the child, who has been raised solely by the applicant. The child has bonded well with the child whom she regards as his own mother. The proposed adoption has the consent of the other children of the applicant. The applicant has lived with the child since birth.
3. This background is set out in the statement in support of the application as well as the affidavit of the applicant verifying the statement, and in the documents prepared and filed in court by the Kenya Children's Homes Adoption Society on 21<sup>st</sup> November 2013.
4. She was freed for adoption by the Kenya Children's Homes Adoption Society by their declaration dated 9<sup>th</sup> October.
5. To facilitate this adoption, the applicant has been assessed by the Kenya Children's Homes Adoption Society, the Director of Children Services and the guardian *ad litem*, F O. These three have compiled and filed their reports in court, dated 20<sup>th</sup> November 2013, 3<sup>rd</sup> April 2013 and 28<sup>th</sup> February 2014, respectively.
6. 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 the applicant and he considers him to be his parent.

7. This is a case of a sole female applicant adopting a male child. Under such circumstances I am required to consider whether special circumstances exist which would favour the adoption. I note that this is a kinship adoption; the applicant being the maternal grandmother of the child sought to be adopted. Secondly, the applicant is a widow, her husband having died in 1982. Thirdly, the applicant has biological children of her own. Finally, I note that the biological mother of the child is a daughter of the applicant; she is retarded and lives with the applicant and the child, under the care of the applicant. I am satisfied that these are special circumstances that tell in favour of the applicant
8. In the opinion of this court it would be in the best interests of the child that she 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.
9. I am satisfied that all the legal requirements for a local adoption have been met, and I therefore make the following orders:-
  - a. That the court allows M A O's application to adopt the child Baby P O K (Junior);
  - b. That the consent of the biological parents of the child is hereby dispensed with;
  - c. The said child shall hereafter be known as P O K (Junior);
  - d. That F O K is hereby appointed the legal guardian of the child in the event of the untoward happening to the applicant;
  - e. That the Registrar-General is directed to enter this adoption order in the adoption register;
  - f. That the guardian *ad litem* is hereby accordingly discharged; and
  - g. That the child is hereby declared to be Kenyan by birth on account of having been born in Kenya to a known Kenyan mother.

**DATED, SIGNED and DELIVERED at NAIROBI this 14<sup>th</sup> DAY OF AUGUST 2014.**

**W. MUSYOKA**

**JUDGE**

**In the presence of Ms. Odiya advocate for the applicants.**