

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA

AT NAIROBI

ADOPTION CAUSE NO. 119 OF 2014

IN THE MATTER OF THE CHILDREN ACT, 2001

AND

IN THE MATTER OF BABY A E - MINOR

J W K.....1ST APPLICANT

J W W.....2ND APPLICANT

J U D G M E N T

The applicants, J W K and J W W, are husband and wife. They were married on 10th April 1993. The 1st applicant is a businessman while the 2nd applicant is employed as a clerical officer at the *[particulars withheld]*. The Applicants have been blessed with five (5) children, however, one child is now deceased. They have applied to this court to be allowed to adopt baby A E (the child). The child was presumed to have been born on 30th January 2011. She was found abandoned on 31st January 2011 near a church in Tassia Estate within Embakasi in Nairobi. A report was made on the same day to Tassia Police Patrol Base. The matter was then forwarded to Embakasi Police station. The child was taken to Thomas Barnardo House for care and protection. The Nairobi Children's Court committed the custody and care of the child to the said children's home on 21st February 2011 pending formal adoption proceedings. The applicants were given custody of the child for mandatory foster care on 22nd August 2011 pending formal adoption pursuant to a foster care agreement. They took custody of the child on the same date. Since then, the child has been under the continuous custody and care of the applicants. The child was declared free for adoption by the Kenya Children's Home, an adoption society on 9th August 2011. A certificate to that effect was issued.

Prior to the hearing of the adoption, the Kenya Children's Home, an adoption society, prepared a report which is filed in court. The Director of Children's Services has also prepared a report which is on record. The guardian ad litem, J N M, 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, J W K and J W W, are hereby allowed to adopt Baby A E. Henceforth the child shall be known as S A M. Her date of birth shall be 30th January 2011. Her place of birth shall be Nairobi-Kenya. She is therefore presumed to be a Kenyan

citizen by birth. A K K and M W M, the brother in law and sister to the 2nd 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 OCTOBER, 2014

M. MUIGAI

JUDGE