



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT MILIMANI

ADOPTION CAUSE NO. 216 OF 2013 (OS)

AND

IN THE MATTER OF THE CHILDREN'S ACT

(NO. 8 OF 2001)

AND

IN THE MATTER OF BABY V M aka W N

JUDGEMENT

1. C W N is a single applicant, who is Kenyan citizen. She seeks to adopt a male child, known for the purposes of these proceedings as Baby V M aka W N. Her Originating Summons is dated 17th September 2013.
2. Baby V M aka W N was born to known parents at the Nyambene District Hospital on 14th October 2009. The birth mother died in the process of delivery, and the child's father disappeared thereafter. A report of the matter was made on 24th August 2010 at the Maua Police Station. The child was admitted at the New Life Home Trust Nakuru for care and protection, to which institution he was later formally committed by the Maua Children's Court. He was placed with the applicant for the pre-adoption bonding period on 15th October 2012.
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 KKPI Adoption Society on 10th October 2011.
4. The child was freed for adoption by the KKPI Adoption Society by their declaration certificate dated 26th September 2012.
5. To facilitate this adoption, the applicant has been assessed by the KKPI Adoption Society, the Director of Children Services and the guardian *ad litem*, S M R. These three have compiled and filed their reports in court. The report by KKPI Adoption Society is dated 7th October 2013, while that by the Director of Children services is dated 4th April 2014. The guardian *ad litem*'s report is undated.
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 her to be his parent.

7. 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 he 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.

8. I note that the applicant is a sole female who seeks to adopt a male child. The law requires me to consider whether there exist special circumstances which would present me to depart from the rule that single females should not adopt more children. The records from KKPI Adoption Society indicate that as at 7th October 2013 no male or a couple had come forward as expressing interest in the child for adoption purposes. At age three he was growing too old and has chances of adoption diminishing. The applicant is the only person available to adopt him. I will take this as a special circumstances and I believe that it would be in the child's best interests that he is adopted by the applicant.

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 the application by C W N to adopt the child Baby V M aka W N;
- b) That the consent of the biological parents of the child is hereby dispensed with;
- c) The said child shall hereafter be known as W N;
- d) That F W N 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 in Kenya to known Kenyan parents.

DATED, SIGNED and DELIVERED at NAIROBI this 19th DAY OF December 2014.

W. MUSYOKA

JUDGE

In the presence of Mr. Makori advocate for the applicant.