



REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA AT MILIMANI
ADOPTION CAUSE NO. 296 OF 2012 (OS)
AND
IN THE MATTER OF THE CHILDREN'S ACT
(NO. 8 OF 2001)
AND
IN THE MATTER OF BABY T ALSO KNOWN AS T W W W
JUDGEMENT

1. F W W is a single female applicant, who is Kenyan citizen. She seeks to adopt a female child, known for the purposes of these proceedings as Baby T also known as T W W W. Her Originating Summons is dated 18th December 2012.
2. Baby T also known as T W W W was born 1st June 2009 at home to a mother called T M. The child was to be admitted at the Kenyatta National Hospital five days later due to prematurity and neonatal pneumonia. While the child was at the hospital, the mother was accommodated at the hospital's women's hostel, from where she was to later abscond. A report of her having abandoned the child at the hospital was made at the Kenyatta Police Post on 19th September 2009. The child was referred to the Hope House Babies' Home at Nairobi, where she later committed by the Children Court. Her birth mother was never found. She was placed with the applicant, for the mandatory bonding period on 25th August 2010.
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 Child Welfare Society of Kenya.
4. He was freed for adoption by the Child Welfare Society of Kenya by their declaration dated 4th May 2012.
5. To facilitate this adoption, the applicant has been assessed by the Child Welfare Society of Kenya, the Director of Children Services and the guardian *ad litem*, R W G. These three have compiled and filed their reports in court, dated 9th September 2014 and 10th May 2013, respectively. The report by Child Welfare Society of Kenya is dated 19th April 2012.
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 she considers

her to be her parent.

7. 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.
8. I have noted from the record that the child was placed with the applicant 25th August 2010, yet the child was freed for adoption on 4th May 2012. This would mean that the applicant took custody of the child before the latter had been declared free for adoption. The practice of freeing a child after he had been placed with the proposed adoption is unacceptable. It is contrary to the law. A child should be placed with the proposed adopter after he had been freed for adoption. The certificate freeing the child is a declaration that the child is available for adoption. Placing a child with a proposed adopter before the declaration is tantamount to starting the process of adoption before the child has been made available for adoption. I note however that the child has been with the applicant for well over four (4) years. It would not be in her best interests in the circumstances to separate her from 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 applicant's application to adopt the child T also known as T W W W;
 - b. That the consent of the biological parents of the child is hereby dispensed with;
 - c. The said child shall hereafter be known as T W W W;
 - d. That J G W 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 Kenyan by birth as she was born to a known Kenyan mother.

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

W. MUSYOKA

JUDGE

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