

REPUBLIC OF KENYA

High Court at Nairobi (Nairobi Law Courts)

Adoption Cause 4 of 2013

IN THE MATTER OF THE CHILDREN'S ACT

(NO. 8 OF 2001)

AND

IN THE MATTER OF BABY CR alias BN (MINOR)

JUDGEMENT

The applicants, DH and HMHH, are Dutch nationals. They are married since 2000. By their Originating Summons dated 9th January 2013 they seek permission to adopt Baby CR alias BN.

The child, Baby CR Alias BN, was born on 24th February 2011 at the Kisumu East District Hospital to Cynthia Ruth. He was abandoned at the hospital on 27th February 2011. A report of the abandonment was made to the Kisumu Central Police Station and efforts to trace the parents were not fruitful. The child was removed from the hospital on 25th March 2011 and admitted at the New Home Life Home Trust, Kisumu, where he was committed by the Children's Court, and from where he was placed with the applicants on 8th October 2012. There is ample documentation supporting this background prepared by and filed in court on 16th January 2013 by the Little Angels Network dated 12th October 2011. The Little Angels Network freed the child for adoption by their certificate of even date.

To facilitate the adoption the applicant has been assessed by the Little Angels Network, the guardian *ad litem*, H.A.M and the Director of Children Services. The three have compiled and filed reports in court dated 13th February 2013 and 11th March 2013, respectively. There is also an international adoption home study report by the Ministry of Justice, Child Care and Protection Board, Gelderland Region, The Netherlands, dated 8th December 2009. All these reports are favourable and recommend the proposed adoption. The applicants have demonstrated that they have the financial and emotional capability and capacity to take care of the child. The child appears to have bonded well with the applicants and considers them to be his parents. I also note that the applicants have a daughter adopted from China, who is very fond of Baby CR alias BN.

This proposed adoption has been approved by the Minister for Justice of the Netherlands in accordance with the Dutch law as per the certificate of permission dated 5th January 2010. According to the undertaking by Foundation Afrika sated 1st November 2011, a Kenyan adoption order will be respected and recognised in the Netherlands and the adopted child will gain resident status in the Netherlands. The proposed adoption has also received local approval through the National Adoption Committee of Kenya, which has issued a certificate dated 15th August 2012.

The applicants have also identified persons who would step in and act as legal guardians in the event of misfortune, such as death or incapacity, befalling both of them prior to the child reaching the age of majority. The proposed legal guardians, WVT and AEB, have executed the requisite letter of consent, which is attached to this Summons, and is dated 3rd April 2012.

In the opinion of this court it would be in the interests of the child that the child is adopted by the applicants. The applicants 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 applicants shall assume all parental rights and duties of the biological parents in respect of the adopted child; they shall treat the adopted child as if he was born to them. The applicants have 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 their property. The applicants cannot give up the child owing to any subsequent unforeseen behaviour or other changes in the child.

I am satisfied that all the legal requirements have been met. The court allows the applicants' application to adopt the child. The applicants, DH and HMHH are hereby allowed to adopt the child, Baby CR alias BN, who shall be hereafter known as BNSH. WVT and AEB shall be the legal guardians of the child should misfortune befall the applicants. The Registrar-General is hereby directed to enter this adoption order in the adoption register, while the guardian *ad litem* is accordingly discharged.

DATED, SIGNED and DELIVERED at NAIROBI this 18th DAY OF APRIL, 2013.

W. MUSYOKA
JUDGE