

REPUBLIC OF KENYA

High Court at Nairobi (Nairobi Law Courts)

Adoption Cause 15 of 2012

IN THE MATTER OF THE CHILDREN ACT, 2001

AND

IN THE MATTER OF BABY M. (MINOR)

C. W. M.....1ST APPLICANT
J. O.....2ND APPLICANT

J U D G M E N T

The applicants, C.W.M and J.O., are husband and wife. They were married on 13th December 2003. The 1st applicant is a businessman while the 2nd applicant is a civil servant. The applicants were blessed with one biological child who however died in 2005 at the age of two. The 1st applicant has two biological children from a previous relationship. They are respectfully sixteen (16) and fifteen (15) years of age. The two children have given their consent to the applicants to adopt the child. The applicants wish to adopt a child. They have applied to this court to be allowed to adopt baby M. The child was on 1st June 2009 found abandoned at Huruma Corner. It was presumed that the child was born on the same date. A report was made to Huruma Police Post on the same day. The child was admitted at Missionaries of Charity Children's Home on the same day. She was committed by the Nairobi Children's Court to the custody of the said Children's Home on 4th September 2009 pending formal adoption proceedings. The Applicants were given custody of the child for mandatory foster care pending adoption pursuant to a foster care agreement which was signed on 31st December 2010. They took custody of the child on the same day. Since then, the child has been in the custody and care of the applicants.

Prior to the hearing of the adoption, the Adoption Society, Kenya Children's Home, prepared a report which is filed in court. They also issued a certificate declaring the child free for adoption. The certificate is dated 13th July 2010. The Director of Children's Services prepared a report which is on record. The guardian ad litem, C.K.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 pertaining 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. The children of the applicants have given their consent to the proposed adoption. 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 capability to provide for the upkeep and education of the child. This court observed that 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, C.W.M. and J.O., are hereby allowed to adopt Baby M. Henceforth, the child shall be known as T.M.W. Her date of birth shall be 1st June 2009. N.N., the niece of the 2nd applicant, shall be the legal guardian 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 AND DELIVERED AT NAIROBI THIS 16th DAY OF APRIL, 2013

L. KIMARU

JUDGE