



REPUBLIC OF KENYA

High Court at Nakuru

Adoption Cause 4 of 2013

IN THE MATTER OF BABY J.W AKA J.R.W.I (INFANT)

AND

T.R.I.....APPLICANT

RULING

In the Originating Summons dated 29<sup>th</sup> January 2013 and filed on 30<sup>th</sup> January 2013 and made pursuant to the provisions of Section 154(1) and 157 and 160(1) of the Children Act 2001, (No. 8 of 2001), the Applicants sought the orders following -

- (1) *That E.J.N of Post Office Box Number [PARTICULARS WITHHELD] Nakuru in the Republic of Kenya be appointed Guardian ad Litem,*
- (2) *That the Director-Children's Department, Office of the Vice- President, Ministry of Gender and Youth Affairs investigate the Applicants' fitness to adopt and file a report,*
- (3) *That the Applicant be authorized to adopt BABY J.W AKA J.R.W.I to be known as J.R.W.I,*
- (4) *That the court be pleased to make any further orders it deems necessary.*

Orders 1 and 2 were granted and issued on 5<sup>th</sup> February 2013. This Ruling concerns prayers 3 – 4 of the Originating Summons.

It is the law and public policy that every adoption order made by the court shall be in the best interests of the child. In this regard it is a requirement of the law that the court be satisfied that all preliminaries and prerequisites for such adoption have been fulfilled by an Applicant who desires to adopt the child -

- *that the child itself is of adoptable age,*
- *that the applicant or applicants are qualified to adopt the child,*
- *that an adoption society has issued or given a certificate declaring that the child is free for adoption,*
- *that the consent of every person necessary for such adoption has been granted or obtained or dispensed with,*

- ***that adequate investigations have been carried out that the proposed adoption would be in the best interests of the child.***

In this case adequate investigations have been carried out on the child and applicants by the Kenya Children Homes Adoption Society which has issued a **Certificate Declaring a Child Free for Adoption** dated 31<sup>st</sup> December 2012. Similarly, the Provincial Director Department of Children Services, of the Ministry of Gender, Children and Social Development, Nakuru have carried out investigation into the Applicants' social, economic and financial capacity to adopt the minor and have established that the Applicants have not only the educational and financial wherewithal to look after and raise the child, but have further found that the child which has not known any other parent and bonds well with the prospective parent, and that it is in the child's best interest that the adoption order be made.

I have reviewed the respective reports by the (Name withheld) Home Adoption Society as well as that by the Provincial Director Children Services Department County of Nakuru and note both reports state that the subject was born in (Particulars withheld) to a mentally challenged mother and that the subject was placed at (Particulars withheld) Children Home in Nairobi, in March 2009 and was committed to (Particulars withheld) Baby Centre, Nakuru, and that since then, the subject's mother died, and her family released the subject for adoption. The prospective mother was awarded guardianship in February 2011, and the subject has been living with her in her (Particulars withheld) Estate home in (Particulars withheld).

The prospective mother was born in (Particulars withheld) USA in the year 1975, and moved to Kenya in the year 2007 as a missionary, and stayed in Nairobi from years 2007 to 2009 and moved to Ngong in the year 2009, and came to Nakuru in the year 2010. She founded (Particulars withheld) in Ngong in 2009, and relocated it to Nakuru in 2010 and runs that institution.

The prospective mother is described as sober, mature and responsible and has never been the subject of alcohol or other substance abuse. Although prospective mother has no known condition for not having her own biological children, she is motivated by a wish to give the subject a home, even if she were to have her own biological child(ren) later. The prospective adoption mother has a steady income from **Her [.....] International** and other investments in stock markets. The adoptive parent has therefore the necessary income to raise the subject.

Both Reports also state that the subject has never known any other ***“parents and/or family, and appears comfortable in her adoptive family, and it is in the subject's best interest to be adopted.”***

In the circumstances, this court is satisfied that the Applicant is qualified to adopt the subject and that it is in the subject's best interest that adoption orders be made.

In exercise therefore of the discretion conferred upon this court by Section 158(1) of the Children Act 2001 (*No. 8 of 2001*), I grant the orders specified in paragraph 3 of the Originating Summons, and all consequential orders to an adoption order as prayed in paragraph 4 of the said Originating Summons, and in particular (*without limitation thereby*), such orders be registered in accordance with the requirements of Sections 169 and 170 of the said Children Act 2001.

The costs herein shall be in the cause.

There shall be orders accordingly.

**Dated, signed and delivered at Nakuru this 12<sup>th</sup> day of April, 2013**

**M. J. ANYARA EMUKULE**

**JUDGE**