

REPUBLIC OF KENYA

High Court at Nairobi (Milimani Law Courts)

Adoption Cause 34 of 2012

J K M.....1ST APPLICANT

R S K.....2ND APPLICANT

J U D G M E N T

The applicants, J K M and R S K, are husband and wife. They were married on 2nd May 1998. The 1st Applicant is an Accountant by profession while the 2nd Applicant is an Administrative Officer. The Applicants have been blessed with two (2) biological children one of whom died. The remaining child is a special needs child. At the time the report was written by the Children's Officer, the Applicants were expecting a third child. They have made a decision to adopt a child. They have applied to this court to be allowed to adopt baby M B (the child). The child was presumed to have been born on 20th July 2010. The child was abandoned by his biological mother at [information withheld]. ospHA report was made to [information withheld]. The child was placed with [information withheld] for care and protection. He was committed by the Siaya Children's Court to the custody of the said Children's Home on 22nd September 2010 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 13th May 2011. 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, [information withheld], prepared a report which is filed in court. They also issued a certificate declaring the child free for adoption. The certificate is dated 4th May 2011. The Director of Children's Services prepared a report which is on record. The guardian ad litem, J M 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. 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 his 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, J K M and R S K, are hereby allowed to adopt Baby M B. Henceforth, the child shall be known as M M K. His date of birth shall be 20th July 2010. S K M, a sister to the 1st 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 AT NAIROBI THIS 13th DAY OF MAY, 2013

L. KIMARU

JUDGE