

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI

ADOPTION CAUSE NO.269 OF 2012

IN THE MATTER OF THE CHILDREN ACT, 2001

AND

IN THE MATTER OF E N - MINOR

P H O..... 1ST APPLICANT

L A A.....2ND APPLICANT

JUDGMENT

The applicants, P H O and L A A, are husband and wife. They were married on 8th May 2000. The 1st Applicant is a Country Director of an International Church organization while the 2nd Applicant is a self-employed as a fashion designer. The Applicants have not been blessed with biological children of their own due to medical reasons. They wish to adopt a child. They have applied to this court to be allowed to adopt baby E N (the child). The child was born at New Nyanza General Hospital on 26th September 2011. The mother of the child absconded from the hospital soon after giving birth. She abandoned the child at the hospital. A report of the abandonment was made at Kondele Police Station. The child was discharged from the hospital and her custody placed with New Life Home Trust, Kisumu on 5th October 2011. She was committed by the Kisumu Children's Court to the custody of the said Children's Home on 12th October 2011 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 24th May 2012. 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, Little Angels Network, prepared a report which is filed in court. They also issued a certificate declaring the child free for adoption. The certificate is dated 23rd May 2012. The Director of Children's Services prepared a report which is on record. The guardian ad litem, S A A K, prepared a report which has also 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 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, P H O and L A A, are hereby allowed to adopt Baby E N. Henceforth, the child shall be known as P A O. Her date of birth shall be 26th September 2011. R S and C M S, family friends of the applicants, 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.

L. KIMARU

JUDGE

DATED, COUNTERSIGNED AND DELIVERED ON 27TH DAY OF JUNE 2013.

W. MUSYOKA

JUDGE