

REPUBLIC OF KENYA

HIGH COURT OF KENYA AT NAIROBI

ADOPTION CAUSE NO. 61 OF 2009

IN THE MATTER OF THE CHILDREN ACT, 2001

AND

IN THE MATTER OF BABY W W alias M W

H K K.....1ST APPLICANT

P W K.....2ND APPLICANT

J U D G M E N T

The applicants, H K K and P W K, are husband and wife. They were married under customary law in 1993 but formalized their marriage on 11th August 2012. Both applicants are farmers. The applicants have not been blessed with children as a couple. However, the 1st applicant has a child from a previous relationship. The child lives with the mother. They wish to adopt a child. They have applied to this court to be allowed to adopt baby W W alias M W (the child). The child was born on 15th March 2006 at Kenyatta National Hospital. The child's mother absconded from the hospital on 18th March 2006. She abandoned the child. The abandonment was reported to Kenyatta Police Post. The child was placed with New Life Home Trust- Nairobi. She was committed by the Nairobi Children's Court to the custody of the said Children's Home on 15th November 2006 pending formal adoption proceedings. The Applicants were given custody of the child for mandatory foster care pending adoption pursuant to a foster care agreement signed on 23rd January 2008. They took custody of the child on the same day. Since then, the child has been in the continuous custody and care of the applicants.

Prior to the hearing of the adoption, Little Angels Network, an Adoption Society, prepared a report which is filed in court. They also issued a certificate declaring the child free for adoption. The certificate is dated 2nd April 2008. The Director of Children's Services prepared a report which is on record. The guardian ad litem, B W O, 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 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, H K K and P W K, are hereby allowed to adopt Baby W W alias M W. Henceforth, the child shall be known as E W K. Her date of birth shall be 15th March 2006. A W K, 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 22ND DAY OF NOVEMBER 2013

L. KIMARU

JUDGE