



REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA AT MILIMANI

ADOPTION CAUSE NO. 109 OF 2013 (OS)

AND

IN THE MATTER OF THE CHILDREN'S ACT (NO. 8 OF 2001)

AND

IN THE MATTER OF BABY G B

JUDGEMENT

1. The applicant, M A T, holds dual citizenships of the United States of America and the Republic of Ireland. She is currently resident in Kenya working with the United Nations at Nairobi, and therefore this is a foreign resident application. She have filed her Originating Summons dated 28th June 2013 seeking the court's permission to adopt the Kenyan female child known for the purpose of these proceedings as Baby G B.
2. Baby G B, the subject of these adoption proceedings was found abandoned at Makadara Estate within Nairobi on 7th February 2012. Her parents are unknown. A report was made at the Jogoo Police Station. She was committed by the children's court to the Nest Children's Home. It is estimated that the child was born on 1st January 2012. Her parents have not been traced to date. She was placed with the applicant on 19th November 2012.
3. This adoption is being arranged by the KKPI Adoption Agency, which filed in court a report on the background given above. The report is dated 1st April 2013. The child was declared free for adoption by the KKPI Adoption Agency by their certificate dated 31st October 2012.
4. To facilitate the adoption the applicant has been assessed by the Director of the Children's Services and the guardian *ad litem*, M K K, both of who have reports dated 14th August 2013 and 13th August 2013, receptively. All these reports are favourable and recommend the proposed adoption. The applicant has demonstrated that she has the financial and emotional capability and capacity to take care of the child. The child appears to have bonded well with the applicant and he considers her to be his parent.
5. I note that this is a case of a sole female applicant seeking to adopt a male child. Under section 158 of the Children Act the court ought to allow the adoption if special circumstances exist. Special circumstances do exist in this case. The applicant has been with the child since 2012, providing him with care and protection.

6. In the opinion of this court it would be in the interests of the child that the child is adopted by the applicant. The applicant will be able to provide a home and a family for the child to grow up in and thereafter be a useful member of the family. Consequently, the applicant will be required to execute an undertaking that she shall assume all parental rights and duties of the biological parents in respect of the adopted child; they shall treat the adopted child as if she was born to them. The applicant have been made aware that once the adoption order is made it shall be final and binding during the lifetime of the child and that the child shall have the right to inherit their property. The applicant cannot give up the child owing to any subsequent unforeseen behaviour or other changes in the child.
7. I am satisfied that all the legal requirements for residency adoption have been met. The applicant, M A T, is hereby allowed to adopt the child, Baby G B. His name shall hereafter be I Z B T. I hereby appoint N M V and J V legal guardians of the child should anything untoward happen to the applicant. The Registrar-General is directed to enter this adoption order in the adoption register. The guardian *ad litem* is hereby discharged.
8. The said child was found abandoned in the Makadara area of Nairobi, and he shall therefore be presumed to be Kenyan by birth. He is entitled to all the rights of a citizen flowing from the Constitution of Kenya 2010 and the Kenya Citizenship and Immigration Act.

DATED, SIGNED and DELIVERED at NAIROBI this 19th DAY OF December, 2013.

W. M. MUSYOKA

JUDGE