



REPUBLIC OF KENYA
IN THE HIGH COURT
AT NAIROBI
MILIMANI LAW COURTS
Adoption Cause 206 of 2011
IN THE MATTER OF BABY DW

RULING

Before me is an application for an adoption order, dated 9th November 2011, brought under **Sections 154, 156, 157(1) 158(1) (a) and 4 (e) 159(4), (6) (7), and (80a), 160(1), 162, 163(1), 164 and 170** of the **Children’s Act, 2001 (Act No.8 of 2001)** and **Section 22 of the Interpretation and General Provisions Act (Chapter 2 of the Laws of Kenya)** (by dint of which the Adoption Rules under the **Adoption Act (Cap. 143)** (repealed) apply).

The applicants herein **HBGK** (1st applicant) and **BB** (the 2nd applicant), a married couple, of **BOTHFELDER STR.4,30916 ISERNHAGEN GERMANY**, have moved the court, praying that they be authorized to adopt and rename a baby Boy presently identified and known as **Baby DW** who, for the purposes of this ruling shall, where necessary, be referred to either as Baby **DW**, the “**minor**” or the “**child**”. Both applicants are German Nationals and were in court for the hearing of this application.

The 1st applicant is aged 42 years, while the 2nd applicant is 41 years old. The applicants were married on 25th April 2003. The adoptive parents are gainfully employed as pastors in Germany where they currently reside. The 1st applicant works part time while the 2nd is in full permanent employment. The family professes the Christian faith both adoptive parents being ministers of the church. There is a stable, well-balanced monogamous marital union which they are committed to preserve. They share common family values and have respect for a united family life and social wellbeing even as their work and private life often overlap. The applicants have proposed a new name which they intend to give to the minor once an adoption order is obtained from this court, with authority to rename her as proposed. The applicants have filed the requisite statements and affidavit in support of the application, bearing all the supporting documents as required by the law. These include financial/ income statements and a home study report which highly recommends the applicants as adoptive parents.

On 18th November, 2011, on the applicants’ application, CWK of P.O. Box [...] Nairobi was appointed the *Guardian ad Litem* for the purposes of this adoption. She has filed a comprehensive report dated 13th December, 2011, primarily stating that **Baby DW** has bonded well with the adoptive family, is happily settled in their care and is well taken care of. She also vouches for the adoptive parents’ capability to bring up the minor well and to provide for the child in a manner that will guarantee not only the necessary day to day care and education, ensuring the very best for the adopted minor, **Baby DW**.

In the unlikely event that they become incapacitated or die, before the child attains the age of

majority, the adopting parents have appointed **FB** and **PBGH** to be the legal guardians of the adopted child. The two have consented so to act. The Guardian ad Litem recommends that the applicants be granted the authority to adopt the minor and that the court grants, also, the incidental prayers sought in this application to complete the process.

The applicants have furnished the court with all the documentation necessary to support the ex parte Originating Summons as required under the relevant adoption laws and rules. They have produced, inter alia the requisite approval of the German Government, through the Protestant Adoption Centre, an adoption Society accredited by the Federal Office of Justice to adopt a Foreign Child, as well as the approval by the Kenyan Adoption Committee of the Directorate of Children's Services. At the hearing of the application, it was proved that **Baby DW** was born on 12th July 2009 and abandoned at Nyeri Provincial General Hospital. The infant was admitted at the Hospital's nursery for Care and Protection. The matter was recorded at Nyeri Police Station vide OB NO: 75/14/07/09. Efforts to trace the infant's parents proved futile

On 2nd April 2011 the infant was formally committed to Love A child Home, Nyeri by an order of the Nyeri Children's Court on 10.3.2010, on the recommendation of the District Children's Officer, Nyeri. The Nyeri police having formally informed the foster home that no claim had been made with them over the infant, Baby DW was certified free for adoption under a Certificate of Declaration to that effect issued by the Little Angels Network, an accredited adoption society on 21st July 2010. She was thereafter released and placed under the foster care of the applicants on 9th August 2011 under a Foster Care Pending Adoption Agreement entered between them and Love A Child Home, annexed as annexure "HB 56" to the applicants' affidavit in support of the adoption application. The minor has been under their care and custody since.

The requisite studies and investigations have been carried out in regard to the applicants' suitability to adopt the infant and reports duly filed. The report by the Director of Children's services, ordered by this court on and was filed on 8th February 2012, recommending the adoption and renaming of **Baby DW** by the applicants, who, according to the Director of Children's Services have proved that they are financially and socially capable of permanently fulfilling parental responsibilities over the infant minor and to ensure his rights of inheritance.

In considering this application, I have perused the reports filed by the *Guardian ad Litem* and the Director of Children's Services, and thoroughly examined all the documentation filed in support thereof. The applicants' suitability has been carefully assessed and positive recommendations filed by credible persons. I am satisfied that the applicants do possess the requisite legal capacity to adopt the minor, and that they do understand the entire adoption process, and its future implications for themselves as a family and in particular, the need to provide the best for the adopted child all his life. I find them to be financially able, medically and morally fit to adopt **Baby DW**. They have undertaken and bound themselves to bring him up as one of their own, in a healthy, happy and secure environment.

Considering the above, I have no hesitation in allowing the application, being satisfied that the proposed adoption is in the best interests of **Baby DW**. Accordingly, the Originating Summons is hereby allowed and orders granted in terms of prayers 3, 4, 5, 6 and 7 thereof. The applicants shall ensure that the undertaking by the Protestant Adoption Centre abides with the terms of its undertaking of 22ND September 2010 and in particular to ensure the filing of annual progress reports on the child with the Little Angels Network for the next 3 years.

DATED, SIGNED and DELIVERED at NAIROBI this 22nd DAY OF March 2012.

M.G. MUGO
JUDGE

In the presence of :

Miss. Kimenyi for the applicants.