



REPUBLIC OF KENYA

High Court at Nairobi (Nairobi Law Courts)

Adoption Cause 49 of 2012

IN THE MATTER OF THE CHILDREN'S ACT

(ACT NO. 8 OF 2001)

AND

IN THE MATTER OF BABY N.N.I

JUDGEMENT

1. Before me is an application for an originating summons, dated 8th March 2012, stated to have been brought under **Sections 158, 159 and 160 of the Children's Act, 2001 (Act No. 8 of 2001) and Sections 24 of the Interpretation and General Provisions Act (Chapter 2 of the Laws of Kenya) and Section 3A of the Civil Procedure Act Cap 21 of the Laws of Kenya.**
2. The applicant herein, **C.N.M**, a single lady of **P.O. Box [particulars withheld] Nairobi** has moved the court, praying that she be authorized to adopt and rename a baby girl, presently identified and known as **N.N.I** who, for the purposes of this judgement shall, where necessary, be referred to either "**Baby N**", "**the child**" "**or**" "**the infant**". The applicant proposes the adoptive child she be known as **T.N.N.M** upon adoption.
3. The applicant is a Kenyan citizen aged 40 years. She has never married but says she is still open to the idea of marriage should the right man come along. The applicant has filed the requisite statement and verifying affidavit in support of the application, bearing all the supporting documents as necessary, including her payslips for the months of October, November and December 2011 and January 2012.
4. On 27th April 2012 on the applicant's application, **H. N.M** of P.O. Box *[particulars withheld]* Nairobi was appointed the Guardian ad Litem for the purposes of this adoption. She has filed a comprehensive report, dated 23rd May, 2012, primarily stating that **the child, N.N I** has bonded well with adoptive parent and with the extended family; is happily settled in the applicant's care and is well taken care of. She also vouches for the adoptive parent's moral aptitude and social capability to bring up the child in an upright manner and to provide for her overall social and material well being. Standing out of the Guardian ad Litem's report is the fact that the applicant understands that the adoption is irrevocable and that she already considers the child as part of her family, to the extent that she has held a child dedication service for the minor, in accordance with the Christian faith, in which she intends to bring her up.
5. The Director of Children's Services on the other hand, has, in the report dated 6th June 2012 (filed on 8th June 2012) reported that the applicant is able to provide for the child in a manner that will guarantee not only her day to day needs and education but also guarantee her an inheritance, being aware of the child's right to the same. To further safeguard the interests of the Child, the applicant has appointed one

L.K.M the legal guardian, in the unlikely event that the applicant becomes permanently incapacitated or dies before the child attains the age of majority.

6. Both the guardian ad litem and the Director of Children's Services highly recommend, therefore, that the applicant be granted the authority to adopt **the child, N. N.I**, being satisfied that the applicant is well able to provide the best upbringing for the adoptive child, in view of her obvious and genuine attachment to the child, zeal for parental responsibility, social standing and financial endowment.

7. At the hearing of the application, it was proved, through the documentation filed in support, that "**Baby N**" was, on 8th December 2010, found abandoned in Kayole. The matter was reported at Kayole Police Station vide OB No. [particulars withheld] . A vacancy was secured at the Imani Children's Home where the infant was committed for custody and care, vide a committal order dated 27th July 2011 issued by the Children's Court, Nairobi.

8. No one has ever come forward to claim the child and the police efforts to trace its biological parents came to naught. On 10th August, 2011 **BabyN** was certified free for adoption under a Certificate of Declaration to that effect issued by the Little Angel's Network. On 27th August 2011, the child was placed under the foster care of the applicant under a care agreement entered between herself and Imani Rehabilitation Agency. She has been under the continuous care and custody of the applicant since.

9. The requisite studies and investigations have been carried out in regard to applicant's suitability to adopt the child and appropriate reports duly filed. According to the Director of Children's Services the applicant has proved that she is both financially able and socially and morally fit to permanently fulfil parental responsibilities over the child.

10. In considering this application, I have perused the reports filed by the Guardian ad Litem and the Director of Children Services, and thoroughly examined all the documentation filed in support thereof, including the pre-placement Report of the Little Angle's Network dated 29th June 2011. The applicant's suitability having been carefully assessed and positive recommendations filed by credible persons, I am satisfied that she does possess the requisite legal capacity to adopt the child, notwithstanding her status of a single lady (and therefore a sole applicant) and that she understands the entire adoption process, and its future implications for herself and the child, in particular, the need to provide the best for the adopted child all her life. I find her to be stable, medically fit and financially able to adopt **Baby N**. She undertaken and bound herself to bring her up as own child, in a healthy, happy and secure environment.

11. Considering the above, I have no hesitation in allowing the application, being satisfied that the proposed adoption is in the best interests of **Baby N**. Accordingly, the Originating Summons dated 8th March 2012 is hereby allowed and orders granted in terms of prayers 2, 3, and 4 thereof.

12. The consent of the biological parents is hereby dispensed with for reasons that they are unknown and efforts to trace them have proved unfruitful.

DATED, SIGNED and DELIVERED at NAIROBI this 11th DAY OF October, 2012.

M.G. MUGO
JUDGE

In the presence of :

Mr. Mwenda holding brief for Ms. Mbanya for the applicant.