



REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA
AT NAIROBI
ADOPTION CAUSE NO.66 OF 2010
IN THE MATTER OF THE CHILDREN ACT, 2001
AND
IN THE MATTER OF BABY C (MINOR)

J.W.G.....1ST APPLICANT

B.W.W.....2ND APPLICANT

J U D G M E N T

The applicants, J.W.G and B.W.W, are husband and wife. They were married under the **African Christian Marriage and Divorce Act** on 16th February, 1985. The 1st applicant has four (4) biological children from a previous marriage. The 2nd applicant has been unable to have children due to medical reasons. They wish to adopt baby C (the child). The child was born on 16th August 2004 at Mother and Child Hospital in Eastleigh. The child's mother, L.M indicated her wish to surrender the child for adoption. She was counseled but later abandoned the child at the hospital. A report was made to Shauri Moyo police station. The child was taken to Missionaries of Charity Home for care on 19th September 2004. The Children's Court at Nairobi committed custody of the said child to the said Charity Home for care and protection pending further court proceedings. The applicants took custody of the child on 19th March 2008 for compulsory foster care pending formal adoption proceedings. Since then, the child has been in continuous care and custody of the applicants. Efforts by the concerned authorities, including the police, to trace the biological parents of the child have been in vain. This court therefore dispenses with the consent of the biological parents of the child for the purpose of these adoption proceedings. The child was declared free for adoption on 12th March 2008 by Kenya Children's Home, an adoption society.

The applicants were assessed by Kenya Children's Home, an adoption society and by the Director of Children's Services. The two organizations recommend the application by the applicants to adopt the child. R.W.K, the guardian ad litem, also prepared a report which is favourable and recommend the adoption. This is a local adoption. As stated earlier in this judgment, the applicants are married couple who have expressed their wish to adopt a male child. The applicants are Kenyan citizens by birth. They established that they have the financial and emotional capability and capacity to take care of the child. In the period of about three (3) years that the child has been in the custody of the applicants, it was evident to the court that the child has bonded with them. The child considers the applicants to be his parents. All the relevant agencies have recommended the adoption. This court is of the view that the applicants have fulfilled all the legal requirements for a local adoption.

This court formed the opinion that it would be in the best interest of the child for the child to be adopted by the applicants. The applicants will provide a home and a family for the child to grow up in and be a useful member of the society. The applicants will be required to execute an undertaking that they shall assume all the parental rights and duties of the biological parents in respect of the adopted child; they shall treat the adopted child as if he was born to them in their marriage; they have been made aware that once the adoption order is issued, it shall be final and binding during the lifetime of the child that they shall adopt; that the child shall have the right to inherit their property; that an adoption order cannot be recanted, and further, that they shall not give up the child owing to any subsequent unforeseen behaviour or other changes in the child.

The court will therefore allow the applicants' application to adopt the child. They have fulfilled the legal conditions for local adoptions by a married couple. The applicants, J.W.G and B.W.W, are hereby allowed to adopt baby C. Henceforth, the child shall be known as C.W.W. L.W.G shall be the legal guardian of the child should misfortune befall the applicants. The Registrar General is hereby directed to enter this adoption order in the Adoption Register. The guardian ad litem is hereby discharged. It is so ordered.

DATED AT NAIROBI THIS 25TH DAY OF FEBRUARY, 2011

L. KIMARU
JUDGE