



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA

AT NAIROBI

ADOPTION CAUSE NO.116 OF 2007

IN THE MATTER OF THE CHILDREN ACT, 2001

AND

IN THE MATTER OF BABY T.M (MINOR)

O.K.N.....

.....1ST APPLICANT

G. N.K.....

.....2ND APPLICANT

J U D G M E N T

The applicants, O.K.N and G.N.K, are husband and wife. They were married under Embu customary law in 1980. The applicants were blessed with one child, a son, who was born in 1987. The child however died in 2005 after falling suddenly ill. The applicants wish to adopt a child. Baby T.M (the child) was found abandoned at Kwaheri Bata Flyover area of Limuru on 3rd March 2003. The child was rescued by a good Samaritan and taken to Tigoni police station. The incident was recorded in the occurrence book of the same day at the said police station. The police referred the child to The Nest Children’s Home at Kiambu. The child was committed to the care and custody of the said Children’s Home by the Kiambu Children’s Court pending further court proceedings. The police have since the abandonment of the child been unable to trace the whereabouts of the biological parents of the child. 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 by Kenya Christian Homes adoption society

on 2nd May 2007. The child was placed under the care and custody of the applicants for compulsory foster care pending these adoption proceedings on 26th July 2006. The applicants have had the custody of the child since then.

The applicants were assessed by Kenya Christian Homes adoption society and by the Director of Children's Services. The two organizations recommend the application by the applicants to adopt the child. M.S, the guardian ad litem, also prepared a report which is favourable and recommend the proposed adoption. This is a local adoption. As stated earlier in this judgment, the applicants are a 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 more than four (4) years that the child has been in the applicants' custody, 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 proposed 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 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, O.K.N and G.N.K, are hereby allowed to adopt baby T.M. Henceforth, the child shall be known as T.M.K. His date of birth shall be 4th October 2001. J. N.K 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 30TH DAY OF MARCH, 2011

L. KIMARU
JUDGE