



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA

AT NAIROBI

ADOPTION CAUSE NO.46 OF 2010

IN THE MATTER OF THE CHILDREN ACT, 2001

AND

IN THE MATTER OF BABY V – MINOR

D.K.M.....1ST APPLICANT

A.M.K.....2ND APPLICANT

J U D G M E N T

The applicants, D.K.M and A.M.K, are husband and wife. They were married under the **African Christian Marriage and Divorce Act** on 30th January 2006. The applicants have not been blessed with biological children of their own due to medical reasons. They wish to adopt a child. Baby V (the child), was born on 9th April 2009 at Thika District Hospital. Soon after birth, the child was abandoned by his biological mother at the said hospital. The mother of the child had indicated her name as J.K. The report of the abandonment was made to the Thika police station. The child was discharged from the hospital and admitted to Happy Life Children's Home. The Children's Court at Thika committed the child to the custody of the said Children's Home pending further court proceedings. Meanwhile, efforts by the police and other relevant authorities to trace the whereabouts of 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 2010 by KKPI adoption society. The child was placed under the custody of the applicants on 3rd December, 2009 for compulsory foster care pending these adoption proceedings.

The applicants were assessed by KKPI, the adoption society and by the Director of Children's Services. The two organizations recommends the application by the applicants to adopt the child. M.K.K, the guardian ad litem, also prepared a report which is favourable and recommends 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 slightly more than a year 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 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 requirement for local adoptions by a married couple. The applicants, D.K.M and A.M.K, are hereby allowed to adopt baby V. Henceforth, the child shall be known as A.M.K. J.K.N 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 18TH DAY OF MARCH, 2011

L. KIMARU

JUDGE