

REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA
AT NAIROBI (MILIMANI LAW COURTS)
ADOPTION CAUSE NO.62 OF 2010

IN THE MATTER OF THE CHILDREN ACT, 2001

AND

IN THE MATTER OF BABY C.T – MINOR

P.D. M.....

.....1ST APPLICANT

A.N.N.....

.....2ND APPLICANT

J U D G M E N T

The applicants, P.D.M and A.N.N, are husband and wife. They were married on 9th April 2005 at St. Austin’s Church in Nairobi. The marriage was celebrated under the **African Christian Marriage and Divorce Act**. The applicants have been blessed with one biological child, a son, born on 10th July 2003. The applicants are motivated to adopt a child because of their desire to help a needy child by giving her a home and a family. The 1st applicant is a banker whilst the 2nd applicant is employed as a manager in a multinational corporation. Baby C.T (the child) was on 8th December 2008 found abandoned on a bench at the reception of Nairobi Women’s Hospital. At the time, the child was about two weeks old. She was presumed to have been born on 24th November 2008. The matter was reported to Kilimani police station. The child was discharged from the Nairobi Women’s Hospital and taken to New Life Home Trust on 11th December 2008. The Children’s Court Nairobi did on 15th May 2009 commit the custody of the child to the said Children’s Home pending further court proceedings. Efforts by the police, and other relevant authorities, to trace the whereabouts of the biological parents of the child have been unsuccessful. 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 27th August 2009

by Little Angels Network adoption society. The applicants took care and custody of the child on 16th May 2009 for compulsory foster care pending these adoption proceedings. The child has been under the care of the applicants ever since.

The applicants were assessed by Little Angels Network adoption society and by the Director of Children's Services. The two organizations recommend the proposed application by the applicants to adopt the child. P.N.M, the guardian ad litem, also prepared a report which is favourable and recommends 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 female 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 two (2) 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 her 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 she 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 a local adoption by a married couple. The applicants, P.D.M and A.N.N, are hereby allowed to adopt baby C.T. Henceforth, the child shall be known as C.C.T.M. P.N.M 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 27TH DAY OF APRIL, 2011

L. KIMARU
JUDGE