

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA

AT NAIROBI

ADOPTION CAUSE NO.29 OF 2009

IN THE MATTER OF THE CHILDREN ACT, 2001

AND

IN THE MATTER OF BABY W.P – MINOR

L.W. K.....

.....**APPLICANT**

J U D G M E N T

The applicant, L.W.K, is a single female applicant who wishes to adopt a female child. According to the report prepared by the Director of Children Services, the applicant is motivated to adopt the child because she has not been able to have biological children of her own due to medical reasons. The applicant has already been granted permission by the court to adopt another female child, namely W.N, the adoption order of which was issued on 13th August 2010. The applicant is a businesswoman based in Narok. She is in the real estate business. She owns several rental buildings. She wishes to adopt another female child. Baby W.P (the child) was born on 27th June 2007 at Thika District Hospital. She was prematurely born and therefore required to be kept at the hospital for specialized care before she could be released to her parents. However, the child was abandoned soon after birth at the said hospital by her biological mother. The report of the abandonment was made to Thika police station on 4th July 2007. The child was discharged from the hospital and admitted to Dagorretti Children’s Home for temporary care and protection. The Children’s Court, Thika committed the child to the care and custody of the said Children’s Home on 9th July 2007. Effort by the police to trace the whereabouts of the biological parents of the child has so far been unsuccessful. No one has come forward to claim 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 on 27th November 2009 by Child Welfare Society of Kenya adoption society. A certificate to that effect was issued and is in the

court file. The applicant took care and custody of the child on 26th September 2008 for compulsory foster care pending these adoption proceedings.

The applicant was assessed by Child Welfare Society of Kenya adoption society and by the Director of Children's Services. The two organizations recommend the proposed application by the applicant to adopt the child. W.N.K, 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 applicant is a single female applicant who wishes to adopt a female child. The applicant is a Kenyan citizen by birth. She established that she has the financial and emotional capability and capacity to take care of the child. In the period of more than two (2) years that the child has been in the applicant's custody, it was evident to the court that the child has bonded with her. The child considers the applicant to be her mother. All the relevant agencies have recommended the proposed adoption. This court formed the view that the applicant has 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 applicant. The applicant will provide a home and a family for the child to grow up and be a useful member of the society. The applicant will be required to execute an undertaking that she shall assume all the parental rights and duties of the biological parents in respect of the adopted child; she shall treat the adopted child as if she was born to her; she has been made aware that once the adoption order is issued, it shall be final and binding during the lifetime of the child that she shall adopt; that the child shall have the right to inherit her property; that an adoption order cannot be recanted, and further, that she shall not give up the child owing to any subsequent unforeseen behaviour or other changes in the child.

The court will therefore allow the applicant's application to adopt the child. She has fulfilled the legal requirements for a local adoption by a single female applicant. The applicant, L.W.K, is hereby allowed to adopt baby W.P. Henceforth, the child shall be known as T.W. B.N shall be the legal guardian of the child should misfortune befall the applicant. 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