



REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA
AT MOMBASA

Adoption Cause 12 of 2008

IN THE MATTER OF BABY C.K
JUDGMENT

The applicants appeared before me in chambers, in the presence of a representative from the Adoption Society, the guardian *ad litem*, and the child.

The guardian *ad litem*, **A.M.M**, said she knew the prospective adoptive family of Mr. **R.M.B** and **H.M.D** who had received the child from Child Welfare Society of Kenya and had been foster-parents to the child. The guardian *ad litem* said she knew the prospective adoptive parents to have the means to maintain and support the infant, if an adoption order is made. In the opinion of the guardian *ad litem*, the proposed adoption order would be in the best interest of the six-year old **Baby C.K**.

The proposed adoptive father, **R.M.B**, said he was a teacher at T Primary School at Mtwapa in Kilifi District, and was aged 48 years. He is a Christian, and married to **H.M.D** with whom he had lived for long but the couple has not had a child. The couple have acted as foster-parents to the child for just under five years, from the time when the child was only 1 ½ years old. This is the first time the couple has sought to adopt a child, and the proposed adoptive father expressed his awareness that an adoption order is irrevocable. **R.M.B** expressed the family's intent to give the adoptive child a new name, **L.K.M**.

The proposed adoptive mother, **H.M.D**, a teacher at **M Primary School** and aged 42 years, said she and her husband had taken on the child as a foster-child out of their own volition, and, that if the Court grants an adoption order, she would take the adoptive child as her own child; she expressed the preparedness to avail all necessities to the adoptive child; and she indicated her willingness to seek a second adoption opportunity if her adoptive son were to become lonely.

Ms. C.W.N, who is the Assistant Administrator of the Adoption Society, Child Welfare Society of Kenya, Mombasa Branch, said she had known the proposed adoptive parents since 2004, when the proposed adoptive mother had visited Mji wa Salama in Mombasa, seeking an opportunity to adopt a male child. **Baby C.K** was then under care at Mji wa Salama, having been brought as an abandoned child from Nairobi and now bearing Protection Number 157/04. The request made by the adoptive mother led the Child Welfare Society to undertake the preparation of a home-study report, on the home-setting of the proposed adoptive parents; and when it was found that these parents were capable of caring for the child, the child was committed to them for foster-care. The Adoption Society at that time asked the foster-mother to indicate if she and her husband were able to care for a physically-challenged child, and when they gave a positive answer, **Baby C.K** was committed to them. Subsequently, the Adoption Society found out that the proposed adoptive parents were able to give loving care to the child; and for 5 ½ years, the child remained under their care, up-to-date when the child now has attained the age of 6 ½ years.

On the basis of the representations recorded herein, learned counsel for the applicants, **Mrs. Ogoti**, urged that the couple be granted adoption orders.

The original prayer is set out in the applicants' Originating Summons of 20th November, 2008, brought

under ss. 154, 156, 157, 158 (1) (a) and 159 (1) (i), (4) of the Children Act, 2001 (Act No. 8 of 2001):
“That the applicants be authorized to adopt **Baby C.K.**, an infant.”

I have read the documentation regarding the instant application, and taken note of the “Statement in Support of an Application for an Adoption Order,” of the proposed adoptive parents, dated 20th November, 2008 and filed on 21st November, 2008. In the said Statement, the applicants have described particulars of their life as a married couple, and expressed their intent, if granted the orders sought, to continue living in Kenya and to commit themselves to the proper up-bringing of their adoptive child.

After hearing the proposed adoptive parents speak for themselves, I formed the impression that they are a responsible, forward-looking couple with the best intentions for their foster-child; and I became convinced that the prayer of these parents was justified and should be granted.

On that basis, I now make this Adoption Order authorizing the applicants to adopt **Baby C.K.**

Orders accordingly.

DATED and **DELIVERED** at **MOMBASA** this 11th day of June, 2010.

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J. B. OJWANG

JUDGE

Coram: *Ojwang, J*

Court Clerk: *Ibrahim*

For the Applicants: *Mrs. Ogoti*