



**REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA
AT NAIROBI (NAIROBI LAW COURTS)**

Adoption Cause 17 of 2001

IN THE MATTER OF THE CHILDREN ACT, 2001

AND

IN THE MATTER OF RK (A CHILD)

J U D G M E N T

By originating summons dated 14.02.06 and filed on 16.02.06 stated to be brought under sections 154; 156(1); 157(1); 158(1)(a), (4)(a); 159 (4), (6), (7), (8)(a); 160(1), (2), (4); 162; 163; 164(1); 170 of the Children Act, No. 8 of 2001 and 24 of the Interpretation and General Provisions Act, Cap. 2, AVWN applied, *inter alia*, for the following orders, namely:-

THAT the applicant be authorized to adopt BABY RK, to be known as LW.

The applicant was represented at the hearing of this cause by learned counsel, Mrs J.N. Thalinga.

Salient facts pertaining to the cause may be summarized as under.

The applicant is a single female Kenyan. She was born on 20.04.56 and is aged around 52 years. She has never married and has no biological child. The child to be adopted is also a female Kenyan. She was born in 2003 and is aged around 3½ years. Section 158(1)(a) of the Children Act is to the effect that for the applicant to qualify as an adoptive parent, she should have attained the age of 25 years and be at least 21 years older than the child but should not have attained the age of 65 years. The statutory age requirements have been met.

The child to be adopted was born of a single parent at a Clinic in Eastleigh, Nairobi in 2003. The biological mother abandoned the child at the Clinic after delivery. The matter was reported to the Police and subsequently the child was placed at Seeds In His Garden Children's Home for care and protection. The Child Welfare Society of Kenya has recorded in its report dated 16.05.07 that the child was placed with the applicant on 20.08.03 for fostering but this appears to be erroneous as the applicant herself told this court on oath that she has had custody of the child from 31.12.04. This latter position is supported by the report of the Director, Children's Services dated 11.01.07. The child has not been claimed to date.

Child Welfare Society of Kenya, a registered adoption society in Kenya, has declared the child free for adoption as required by law.

The guardian *ad litem*, Ms BWC has recommended the proposed adoption.

The Director, Children's Services has recorded that the applicant is a person of means and that she has bonded perfectly with the child. The Director too has recommended the proposed adoption.

The applicant testified before this court. She told the court that she is a Christian, that she has never married and has no biological child. She said that if the right man comes along, she may marry but she has no marriage plans as of now. With regard to the proposed adoption, the applicant told the court that she felt a desire to adopt and that the desire seemed like a calling. Arising from that desire, she looked for a child and found the child subject matter of these adoption proceedings. The applicant confirmed getting on very well with the child.

With regard to the applicant's financial standing, she gave details thereof to the representative of the Director of Children's Services who interviewed her as follows. Her (applicant's) net salary is Kshs.41,000/= per month from the Ministry of Education. She has a total of 1,800 shares with KENGEN, NIC, The Standard Chartered Bank and National Bank of Kenya. She has a savings Account with Barclays Bank, Haile Selassie Avenue worth Kshs.130,000/=. She owns and operates a college for in-service training of primary school teachers, i.e Limuru College for Early Childhood Teachers, from which she earns income averaging Kshs.800,000/= per year, which translates to approximately Kshs.66,666/= per month. She has plots in Kasarani, Nairobi, in Limuru Town and in Thika. She owns a saloon car Reg. No. KAS 405X. The applicant is clearly enterprising and has requisite financial means to cater for the child's needs. She recognizes the subject child's right to inherit from her and she told the representative of the Director of Children's Services that getting an heir is indeed one of the principal reasons which informed her decision to adopt.

The subject child was abandoned at birth and has never been claimed. She needs a home environment in which to grow up and the applicant is offering one. The child's biological parents' consent to the proposed adoption is hereby dispensed with.

The applicant has appointed one James Muoria Njenga of P.O. Box 1318, Limuru as legal guardian of the child in the event of the said applicant's death or incapacity before the child is of majority age and self-reliant.

I am satisfied on evidence tendered before court that the applicant meets the legal requirements and social parameters for adoptive parents; that the applicant is a fit and proper person to adopt the child; and that it is in the child's best interests to be adopted by the applicant. Accordingly, I make an order under section 154(1) of the Children Act, 2001 authorizing the applicant, AVWN to adopt BABY RK who shall henceforth be known as LW.

The Registrar-General is directed to make appropriate entries in the Adopted Children Register as required by law.

Orders accordingly.

Delivered at Nairobi this 24th day of January 2008.

B.P. KUBO

JUDGE