



REPUBLIC OF KENYA

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

Adoption Cause 30 of 2006

IN THE MATTER OF THE CHILDREN ACT, 2001

AND

IN THE MATTER OF S alias S N (A CHILD)

JUDGMENT

By originating summons dated 03.03.06 and filed on 07.03.06 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); 163; 164(1) and 170 of the Children Act No.8 of 2001 and section 24 of the Interpretation and General Provisions Act, Cap. 2, ENK of P.O. Box 6283-00100, Nairobi, *inter alia*, applied for the following substantive order, namely:-

THAT the applicant be authorized to adopt BABY S alias SN to be known as MMK.

The applicant is a Kenyan single female. She was born on 20.09.63 and is aged around 44 years. The child the applicant seeks to adopt, also female, was born on 07.07.04 and abandoned at Prestige Health Point along Muranga Road, Nairobi. The child is aged around 2 years 8 months. Section 158 (1) (a) of the Children Act is to the effect that for the applicant to qualify as an adoptive parent, she has to 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 was rescued by a 'good Samaritan' and taken to Nairobi Central Police Station which in a letter dated 06.10.04 reported that nobody had laid down claim to the child. A letter dated 21.07.05 from the Nairobi Provincial Children's Officer also reported no claim had been laid on the child even as at July, 2005. The child was subsequently committed to Hope House Babies Home, Nairobi for foster care. The Home released the child to the present applicant on 23.11.04 for fostering and eventual adoption if approved by court and the applicant has fostered the child ever since.

The applicant has stated that she used to be employed by Mobil Oil Kenya Limited as a Business Planning and Analysis Manager for East and Southern Africa but she ceased to be so employed on 01.07.06 owing to re-organization of that company and she now partners with a friend in Information Technology (IT) in Nairobi. She was paid a one – time separation payment of Kshs.5,475, 636/= subject to tax at the rates prescribed by the Kenya Revenue Authority. In her further affidavit sworn on 23.02.07 she has readily acknowledged that her IT business is fledgling. However, she has deponed that she has substantial savings and that her monthly income is over Kshs.100,000/= per month. She owns a 4-bedroomed house at Baraka Estate, Nairobi, a 3.152 hectare land situated East of Naivasha and a car. She has a medical cover for herself and the child to be adopted, for whom she has also opened a bank account (Jumbo Junior) with the Co-operative Bank which as at 11.01.07 had a credit balance of Kshs.67,562/=.

Little Angels Network, a registered adoption society in Kenya, has vide its report dated 19.04.06 declared the child in question free for adoption as required by law.

The guardian *ad litem*, EMK has in her report dated 06.06.06 recommended the proposed adoption.

ENM of P.O. Box 39834 – 0623, Parklands, Nairobi has vide her letter dated 26.09.04 accepted to be the child's guardian. This court emphasizes to the said ENM that the undertaking she has made means that in the event of the applicant's death or other incapacity before the child is of majority age and able to support herself, she the legal guardian will take care of the child's needs. It is on such undertaking that this court accepts ENM offer to act as the child's legal guardian.

The Director, Children's Services has vide his report dated 31.10.06 recommended the proposed adoption. He confirms that bonding has taken place between the applicant and the child.

As the child's biological parents are unknown and have not claimed the child, I dispense with their consent to the proposed adoption as I am empowered so to do by law.

The applicant told this court that she has never married and has no biological child or children. She added that while she has not ruled out marriage, there is no proposal on the table. She loves children and as a Christian has decided that the proper way to attain parenthood in the circumstances is via the adoption route and that should the right man come along after the proposed adoption goes through, the man would have to accept her and the adopted child as one.

I am satisfied on evidence tendered before this court that the applicant meets the legal requirements and social parameters for an adoptive parent; that she is a fit and proper person to adopt the subject child; and that it is in the child's best interests to be adopted by the applicant. Accordingly, I hereby make an order pursuant to section 154 (1) of the Children Act, 2001 authorising the applicant, ENK to adopt the child S alias SN who shall henceforth be known as MMK. The Registrar – General is directed to make appropriate entries in the Adopted Children Register as required by law.

Orders accordingly.

Delivered at Nairobi 9th day of March, 2007.

B.P. KUBO

JUDGE