

IN THE MATTER OF BABY RM a.k.a. TWN

(A CHILD)

JUDGMENT

By originating summons dated 11.04.05 stated to be brought under Part XII sections 154 and 160 of the Children Act, No.8 of 2001, AAN applied, *inter alia*, to be authorized to adopt **RM** a.k.a. TWN. It is the applicant's wish that if the proposed adoption is authorized, the child be known as TWN.

The applicant was represented in these proceedings by learned counsel, Miss A.N. Muniafu.

Salient facts pertaining to the application may be summarized as under. The applicant is a female Kenyan of African race. She was born on 02.01.64 and is aged around 43 years. She is single. The child to be adopted was born on 12.02.04 and is aged about 3 years. 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. These statutory age requirements have been met.

The child to be adopted was conceived of **RM** who was still a student and who approached the Child Welfare Society of Kenya and offered the expected child for adoption. RM was advised to report back to the society after 6 weeks of delivering the expected baby and sign final consent to the child's adoption. The child was eventually born on 12.02.04 as already stated but the child's biological mother never went back to the Child Welfare Society of Kenya to sign final consent offering the child for adoption. For that reason, one of the prayers in the present application is for the court to dispense with the child's biological mother's consent to the proposed adoption. The biological father of the child was named by the child's mother as JG but that he disowned paternity and has not featured in the child's life. On 08.06.07 the applicant sought an order of this court dispensing with the biological mother's consent to the proposed adoption and the court granted the order.

The applicant is a single mother. She has one biological child, a daughter now aged around 10 years. The applicant runs a clinic from which she derives income ranging from Kshs.30,000/= to Kshs.50,000/= per month. She is also in real estate business as an agent and earns from the agency business a monthly salary of Kshs.46,000/=. She also has 3 plots (2 in Ruai and 1 in Tassia) which she told the Directorate of Children's Services in 2006 that she intended to develop.

The child to be adopted, a Kenyan girl also of African race, was born at Pumwani Maternity Hospital, Nairobi on 12.02.04 where the mother left her and where she remained for 3½ moths. Later the child was admitted to the Abandoned Baby Centre, Nairobi from where the applicant herein took her on 18.10.04 for foster care. The applicant has had custody, care and control of the child since 18.10.04.

The Child Welfare Society of Kenya has declared the child free for adoption as required by law.

The guardian *ad litem*, Anastasia Wanjiku Mwangi has recommended the proposed adoption.

The Director, Children's Services has vide his report dated 23.10.06 reported that bonding has taken place between the child to be adopted and the applicant and also that the said child has a good relationship with the applicant's biological daughter. The Director too has recommended the proposed adoption.

I am satisfied on evidence tendered before court that the applicant meets the legal requirements and social parameters for an adoptive parent, that she has the requisite financial means to cater for the needs of the child, that she 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 hereby make an order under section 154 (1) of the Children Act, 2001 authorising the applicant, AAN to adopt BABY **RM** a.k.a. TWN who shall henceforth be known as TWN. The Registrar – General is directed to make appropriate entries in the Adopted

Children Register as required by law.

Orders accordingly.

Delivered at Nairobi this 28th day of September, 2007.

B.P. KUBO

JUDGE