



**REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA AT NAIROBI**

Adoption Cause 54 of 2005

IN THE MATTER OF THE CHILDREN ACT

AND

IN THE MATTER OF M (AN INFANT)

JUDGMENT

The 2 applicants A.A. and C.A. applied to adopt baby M alias J.W, who was abandoned at Missionaries of Charity Home, Maralal on 20th May 1998 when she was 4 years old.

Prior to the application for adoption, the court appointed a guardian ad litem for the baby, and the said guardian prepared a comprehensive report which I have considered.

An investigate or home study report by the Child Welfare Society was filed. The Society also declared the child free for adoption.

There was also the report by the Children's officer, of the Department of Children of the office of the Vice President and Ministry of Home Affairs. Both reports recommended adoption for baby M., who is a special case of a child as she is both physically and mentally handicapped, due to some brain damage she suffers from cerebral palsy and epilepsy and can therefore literally do nothing for herself.

On the day of the hearing of the application, both applicants were present in court, as well as the baby.

I saw the baby and confirmed her disability, which has rendered her incapable of either supporting herself, or doing anything else for herself. She is now aged 11 years old, but is still carried on the laps as a baby. Because of all this, I asked both applicants whether they really wanted to adopt this child to which they replied separately that they loved this child and wanted to adopt her and support her.

Though the child cannot speak, both applicants have learnt how to communicate with her. The 1st applicant A works with an Organization in Switzerland which handles the children such as the infant herein.

C., the second applicant stated categorically ***“we know little M. very well. She needs a lot of time to feed. She is not a difficult child. She sleeps well and does not cry much. I now understand this child. I can tell when she is not happy. I am prepared for this challenge”.***

The applicants do not have children of their own, but they confirmed in court that even if they have their own children in future, this will not be the position of M., who is now their first born child.

The second applicant too has worked with handicapped children with special needs. She stated further,

**“I think I am ready to have this child and look after her
for 24 hours. It was always my wish”.**

The report by the Children’s officer showed that the applicants have sufficient income to maintain a family, more so, to maintain a child with such special needs.

I watched both applicants as they spoke about this child in court. I also saw the condition of the child. I was touched by the love and care the 2 applicants have shown to this child, who really needs special care and attention. I appreciate the fact that both applicants have worked with children such as baby M. I consider that working with such children is one thing, and having one of such children as an adoption child, is one thing, but I am satisfied that the 2 applicants are committed to this child and want to help her. They were both optimistic that if allowed to adopt baby M., they would take her to Switzerland where she can have specialized treatment, to help her.

I am satisfied that the 2 applicants and baby M., have become a family. I admire the sense of commitment of the 2 applicants in wanting to adopt this baby. Their reasons sound genuine to me, and I have no hesitation in authorizing A.A. and C.A. to adopt baby M. who from today will be known as M.A.

Finally, I direct the Registrar of Births to issue a birth certificate to the child who has just been adopted by the applicants, in the names M.A.

Dated at Nairobi this 11th day of November, 2005.

JOYCE ALUOCH

JUDGE