



REPUBLIC OF KENYA

IN THE HIGH COURT AT KERUGOYA

ADOPTION CAUSE NO. 2 OF 2017

IN THE MATTER CHILDREN'S ACT

AND

IN THE MATTER OF BABY MJ alias MVM (CHILD)

AND

MVM.....APPLICANT

JUDGMENT

1. The Applicant is a sole female adult who wishes to be authorized a male child.

By dint of **Section 158 (2) (d) of the Children's Act**, only under very special circumstances would allow a single female or single male applicant to adopt a child of the opposite gender. This huddle was laid to rest by the court (Gitari J) on the 30.4.2020, when, upon consideration of the Children's Officer's report on the suitability of the applicant to adopt the proposed child. The children's officer's objection was rejected, and the court directed that the proceedings proceed to conclusion.

2. The Applicant by an originating summons taken out on the 21.9.2017 and filed on even date sought orders to be authorized to adopt the minor baby boy MJ alias MVM, with EWM and EMM as the legal guardians to the child. To support the application, the statement and an affidavit by the applicant was filed together with the originating summons. Also filed were all the necessary legal documents including the Kenya Police Service reports of an abandoned child, children's home reports, consent of proposed guardian ad litem and legal guardian, particulars of the child and the Adoption Society report on the child and the proposed adoptive parent.

3. The applicant is a single woman aged 57 years old, a Kenyan citizen and a resident of Kerugoya town but hails from Murang'a County. She is childless. She lives in her own house in her own plot which is well serviced by borehole water. She rears pigs for sale and has rental houses to supplement the income from the pig sales.

4. The applicant works as a nurse at the Kerugoya County Referral Hospital. The proposed adoptive child is estimated to have been born on 16.6.2013 and abandoned on the 5.1.2015 in Kibera Nairobi from where he was rescued and taken for care and protection at the New Life Home Trust Nairobi, on the 8.5.2015 under **Protection and Care Case No. 86/2015** at the Senior Resident Magistrate's Court – Nairobi vide a committal order of same date. The child was released for adoption by the case committee of Little Angels Network on the 7.8.2015 vide a certificate number [...] pursuant to **Section 156 (1) of the Children's Act**.

5. I have considered the Kenya Police Service report on the baby. The final report dated 21.7.2015 states that no claim was ever made over the baby by any person. The child was released to the applicant under a care agreement with the New Life House Trust dated 25.11.2015, under the mandatory three months continuous stay pending the legal process of adoption pursuant to **Section 156 of the Children's Act**.

6. The social enquiry report on the applicant is positive with a report that the applicant's family has welcomed the child into their bigger

family and friends.

7. The proposed legal guardians are the applicant's nephew and his wife who have two children aged nine and six and devout church members and secretary at the Kerugoya District Hospital respectively. Both the applicant and the proposed legal guardians were examined by the court as to what they perceived to be their duties, responsibilities and understanding of an order of adoption. The court was duly satisfied that they are ready willing and capable of performing their duties.

8. **Pursuant to Article 14 (4) of the Constitution and Section 157 (1) of the Children's Act**, the child is presumed to be a Kenyan citizen having been abandoned and found within Kenya soil. The best interest of the child is paramount. If the orders are granted, the child will grow into a loving home and family. The applicant is ready to offer parental guidance and a loving home to the child.

9. At the moment, the child is enjoying favourable parental guidance and support besides food, clothing, medical care and education. He has a bright future with the applicant including inheritance rights and an identity. For the foregoing, the applicants' application dated 21.9.2017 is granted.

Consequently, the applicant is authorized to adopt the baby, to be called MVM.

EWM and EMM are hereby appointed legal guardians of the minor child.

The biological parents consent for the adoption of the child is hereby dispensed with.

The director general is directed to enter into the Adopted Childrens' Register the adoption order.

Orders accordingly.

Dated, Delivered, and Signed at Kerugoya this 10th Day of February, 2021.

J. N. MULWA

JUDGE