



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA

AT KAJIADO

ADOPTION CAUSE NO. 2 OF 2020

IN THE MATTER OF THE CHILDREN'S ACT, 2001

AND

IN THE MATTER OF AN APPLICATION FOR AN ADOPTION OF BABY DC (CHILD)

BY

1. POOM

2. ECP.....APPLICANTS

JUDGMENT

1. The applicants filed an Originating Summons dated 16th June 2020, seeking an order from this court allowing them to adopt Baby DC, a child who was abandoned at the Coast General Hospital after birth on 6th August 2018. The incident was reported at Makupa Police Station under **OB No. [...]**. The child was placed with Baby Life Rescue Centre.
2. The applicants also seek an order that upon adoption, the minor be renamed **PDM** and that **RKN** and **CMKN** be appointed the Legal Guardians to the minor. They further seek the general order that the Registrar General do make appropriate entries in the Register of Adoptions with respect to this adoption.
3. The Originating Summons is premised on the applicants' affidavits filed together with the summons. They state that the minor was born on about 6th August 2018 at the Coast General Hospital; that they are husband and wife and citizens of Kenya; that they are both employed, the 1st applicant as an Economist working with [Particulars withheld], and the 2nd applicant as a Program Assistant with [Particulars withheld]and reside in Kajiado County. They are of good Christian faith and conduct.
4. The applicants state that the Minor was received into their custody and care on 18th September 2019 and she has been in their continuous custody and care since then; that the child was committed to Baby Life Care through a committal order issued by Tononoka Children court in Care and custody case No. [...] and the child was later made available for adoption by **KKPI Adoption Society**, a registered Adoption Society. They also state that they are adopting the child on their own free will and that they have not received any inducement for this adoption. They have never made any application for adoption.
5. The applicants attached consent by proposed Legal Guardians and other documents in support of their application, including a report to demonstrate that the child was declared free for adoption and a pre-placement report. These, they state, show that the child is free for adoption.
6. The court directed the County Children Welfare officer, Kajiado County, and the Guardian Ad litem, **CWK**, to file reports on the suitability of the applicants to adopt the child. The report by the County Coordinator, Children Services dated 24th September2020 was filed on 7th October 2020 recommending the adoption. It was signed by **Mr. Masese Samuel**. The Guardian Ad Litem also filed her report dated 27th July 2020 on 28th August 2020, also recommending adoption.
7. During the hearing of the Originating summons, the applicants moved the summons and urged the court to allow it. They relied on the documents they filed in support of the Originating summons. The child was also present in court and so were the Guardian Ad Litem, the intended Legal Guardians and County Coordinator, Children Services.
8. I have considered the Originating Summons, the affidavits and all the documents relied on. I have also considered the reports from the

Children Office and the Guardian Ad Litem which recommend adoption for the interest of the child.

9. The child was born on 6th August 2018 at the Coast General Hospital, Mombasa, but was abandoned by her mother, DC, immediately after birth. The child was placed with Baby Life Care on 6th August 2018 and was committed to the Home by Tononoka Children Court through a committal order issued on 1st August 2019 in Care and Custody Case No. [...]. Thereafter, the child was declared free for adoption by **KKPI Adoption Society**.

10. The applicants took custody of the child on 18th September 2019 and have had her in their custody since then. The child's biological parents' whereabouts are unknown as the mother abandoned her at birth and her biological father is unknown.

11. It is clear from the record that the child has been with the applicants and the reports filed recommend adoption. The applicants are willing to adopt the child who has settled and integrated well with them. The applicants have taken her as their own child. The child needs love and protection which the applicants are willing to offer on adoption. The child was given up for adoption because she was abandoned and documents from Makupa Police Station confirm this.

12. I have also perused the record and noted that the applicants are responsible people who have taken in the child as their own. They have so far done well in integrating her with their own child. The court observed the child during the hearing of this matter and was satisfied that the child appeared happy and quite at home with the applicants. She exhibited a high degree of confidence with no sign of distress. She appeared happy and at ease throughout the session. She moved around the court and playing with the applicants and their other child in court.

13. Regarding the applicants' financial ability, the record shows that they have financial means to take care of the child. They have their own home where the child resides with them.

14. During the hearing, the proposed Legal Guardians, **RKN**, Identity card Number [...] and **CMKN**, Identity card Number [...] confirmed to court that they were aware of their obligations as legal guardians should they be appointed. Mr. Samuel Masese Identity Card Number [...], a Principal Children's officer, confirmed that he had made the report after carrying out his investigations.

15. On the basis of what I have seen on record and heard from the applicants, the minor is a needy child who was abandoned by her biological mother immediately after birth. She needs parental care and protection so that she can grow up like any other child with emotional love which the applicants have promised to offer. I also note that the applicants meet the legal requirements for adoption under the Children Act. All reports are in favour of adoption for the benefit and wellbeing of the child. The Constitution and the law require that in matters concerning a child, the best interests of the child should be paramount.

16. In the circumstances, and given that the proposed Legal Guardians have confirmed that they are ready and willing to step in should the applicants be unable to discharge their parental responsibility to the child, I am satisfied that the application is for granting.

17. Consequently, the Originating Summons dated 16th June 2020 is allowed and I make the following orders;

a) An order is hereby made authorizing the applicants POOM and ECP to adopt Baby DC

b) That the child be renamed PDM.

c) That RKN and CMKN are hereby appointed the Legal Guardians of the child in the event that the applicants die, or are incapacitated by ill-health.

d) That CWK, the Guardian Ad Litem, be and is hereby discharged.

e) That the Registrar General be and is hereby directed to make appropriate entries of this adoption into the Register of Adoptions and issue a certificate to that effect.

Dated, Signed and Delivered at Kajiado this 12th day of March, 2020

E. C. MWITA

JUDGE