



**REPUBLIC OF KENYA**

**IN THE HIGH COURT OF KENYA AT MAKUENI**

**HIGH COURT ADOPTION CASE NO. 2 OF 2020**

**IN THE MATTER OF.....THE CHILDREN ACT**

**AND**

**IN THE MATTER OF THE ADOPTION OF.....IS “aka” BABY LW (CHILD)**

**BY**

**SNM.....1<sup>ST</sup> APPLICANT**

**PMS.....2<sup>ND</sup> APPLICANT**

**RULING**

1. Before me is an Originating Summons dated 20<sup>th</sup> January 2020 brought under section 4 and 154 of the Children Act 2001, section 9 of the Kenya Citizenship and Immigration Act No. 12 of 2011, and Article 14 of the Constitution of Kenya 2010, seeking the following orders:-

- 1. That, the Applicants be authorized to adopt the child known as Baby IS “aka” Baby LW.**
- 2. That, upon making the adoption order, the said child be known as IMS.**
- 3. That, the Registrar General do make the appropriate entry of IMS in the Adopted Children’s Register.**
- 4. That, the child IMS be presumed to be a Kenyan Citizen born in Kenya and that the Director of Immigration Services do issue IMS with a Kenyan Passport.**
- 5. That, FMS be appointed Legal Guardian of the child IMS.**

2. Before the Originating Summons was heard, the court appointed DMK as Guardian Ad Litem of the child, and also directed the Director of Children Services to file a report on the suitability of the Applicants to adopt the child.

3. Thereafter, the Director of Children Services filed their report signed by Francis Kyalo Sub-county Children Officer Mbooni dated 17<sup>th</sup> September 2020, and the Guardian Ad Litem DMK filed his report dated 16<sup>th</sup> March 2021. Both reports were adopted in court by the Sub-County Children Officer and the Guardian Ad Litem respectively and favourably recommend the adoption of the child by the Applicants.

4. From the documents filed and evidence availed to this court, it is clear that the child is an abandoned male child while the Applicants are a husband and wife, who have three (3) adult biological female children. From the reports filed also, the Applicants are ready and willing to adopt the child. The proposed Legal Guardian of the child FMM is also willing to be so appointed.

5. I note that in the concluding remarks of his written report, the Children’s Officer for the Director of Children Services states as follows:-

***“This is a local adoption which is merited under section 158 of the Children Act 2001. The prospective adoptive parents are Kenyan Citizens by birth seeking to adopt a male child who since 15<sup>th</sup> May 2018 were placed with the child (sic) and have provided care and protection to him. The prospective adoptive parents (applicants) SN and PMS are fit and suitable to adopt the child IS “aka” LW and thus I recommend them positively for the adoption of the said child affirming that the adoption will serve in his best interest.”***

6. Having reviewed the facts and circumstances of this matter and the evidence placed before me, I am of the view that the adoption of the

child herein will be in the best interests of this otherwise abandoned child and will enable him grow up in a family with parents to care, support and guide him. I will thus allow the application for adoption, since in my view it is in the best interests of the child in terms of Article 53 (2) of the Constitution which provides as follows –

***“53(2) A child’s best interests are of paramount importance in every matter concerning the child.”***

7. Consequently and for the above reasons, I allow the Originating Summons (*application*) and order as follows:-

***1. The Applicants be and are hereby authorized to adopt the child known as Baby IS “aka” Baby LW.***

***2. That upon making this adoption order the child be and is hereby known as IMS.***

***3. I order the Registrar General to make the appropriate entry of IMS in the Adapted Children’s Register.***

***4. The child IMS be and is hereby presumed to be a Kenyan Citizen born in Kenya and the Director of Immigration Services do issue IMS with a Kenyan passport.***

***5. That FMS be and is hereby appointed as Legal Guardian of the child IMS.***

**Dated, Signed and Delivered at Makueni in open court this 15<sup>th</sup> day of April 2021.**

.....

**GEORGE DULU**

**JUDGE**