



REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA AT NAIROBI
FAMILY DIVISION
ADOPTION CAUSE NO. 141 OF 2019 (OS)
IN THE MATTER OF THE CHILDREN ACT, 2001
AND
IN THE MATTER OF AN APPLICATION FOR AN ADOPTION OF BABY T.
IN THE MATTER OF AN APPLICATION FOR ADOPTION BY
EKM.....1ST APPLICANT
DMM.....2ND APPLICANT

JUDGMENT

1. The applicants EKM and DMM are a Kenyan couple aged 59 and 42 years, respectively. The 1st applicant is an engineer employed at [Particulars Withheld] while the 2nd applicant is a business-woman. The applicants got married under customary law in 2005 and solemnized their marriage on 4th July 2017 at ACK Church in Gatanga in Muranga County. They have no child of their own. On 17th October 2019 they filed this originating summons dated 16th October 2019 seeking to adopt Baby T.

2. Baby T. is presumed to have been born on 18th July 2014. On the 28th July 2014 the child was abandoned by his mother at Mbagathi Hospital Ward IP No. [...] where he was taken for treatment. The matter was reported to Kenyatta Hospital Police Station vide O.B. No. 19/21/8/2014. The child was temporarily placed at Happy Life Children's Home on the 21st August 2014 after discharge from the hospital on the same date. He was formally committed to the same Home by the Senior Resident Magistrate's Court at Milimani Law Courts vide **Care and Protection Cause No. 290 of 2014**. On the 25th March 2015 the child was declared free for adoption vide Certificate No. [...] by KKPI Adoption Society. This was after police efforts to trace the mother or relatives of the child were not successful. On 21st October 2017 the child was placed with the applicants for foster care. He has been with them since.

3. On 6th February 2020 the court appointed SIK as the guardian *ad litem* and ordered him and the Director of Children Services to prepare and file the requisite reports within 45 days after carrying out a social inquiry on the applicants to determine their suitability to adopt the child. The two reports were filed. Both recommended the applicants to be allowed to adopt the child. The reports found that the applicants were socially, emotionally and financially stable and suitable to adopt the child. It was also found that the child had bonded well with the applicants and their relatives.

4. The court finds that it is in the best interests of the child to be adopted by the applicants. The applicants have demonstrated their capability to provide a conducive home and family environment in which the child will grow and develop. They will assume all parental rights and obligations of the biological parents of the child once adopted, and shall treat him as if he was born to them. They have been made aware that once the adoption order is made, it shall be final and binding during the lifetime of the child. The child shall have the right to inherit their property. The applicants shall not be able to give up the child owing to any subsequent unforeseen behaviour or other changes in the child. This court dispenses with the consent of the child's biological parents as he was found abandoned.

5. Having been satisfied that all the legal requirements for a local adoption under the **Children Act** have been met, the following orders shall issue:-

a) the applicants EKM and DMM are hereby allowed to adopt Baby T.;

b) Baby T. shall henceforth be known as TMK;

c) the child's date of birth shall be 18th July 2014 and shall be presumed Kenyan citizen having been found abandoned at Mbagathi Hospital in Nairobi County in Kenya;

d) RMM and RMS are hereby appointed as the child's legal guardians in the event of the death or incapacity of the applicants before he is of full age and fully self-reliant;

e) the Registrar-General is directed to enter this adoption in the Adopted Children Register; and

f) the guardian *ad litem* is hereby discharged.

DATED AND DELIVERED AT NAIROBI THIS 15TH DAY OF APRIL, 2021

A.O. MUCHELULE

JUDGE