



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI

FAMILY DIVISION

ADOPTION CAUSE NO. 94 OF 2019 (OS)

IN THE MATTER OF THE CHILDREN ACT, 2001

AND

IN THE MATTER OF AN APPLICATION FOR AN ADOPTION

OF BABY VG ALIAS VH ALIAS VL

IN THE MATTER OF AN APPLICATION FOR ADOPTION BY

SNN.....1ST APPLICANT

LMN.....2ND APPLICANT

JUDGMENT

1. The applicants SNN and LMN are a Kenyan couple aged 54 and 48 years, respectively. They run their own business. They have lived together since 1997, and solemnised their marriage on the 26th March 2010 at the Registrar's Office in Nairobi. The couple got a child who died. In 2016 they adopted a child who has supported this application. On 26th January 2021 they filed this amended originating summons seeking to adopt Baby VG alias VH alias VL.

2. Baby VG alias VH alias VL was according to his birth certificate born on the 5th September 2015 to one NJK at Eldama Ravine District Hospital at Koibatek District. The baby was conceived as a result of the biological mother being defiled by her biological father J KK. The father was arrested, charged and convicted of defilement. The family offered to give up the child to the government. A Children Officer's report was done on the 7th September 2015 as a result of which the child was handed over to New Life Home Trust Nakuru for care and protection after the mother and her mother signed a certificate of acknowledgement and an affidavit of consent to adoption on 13th October 2017. On 18th November 2015 the Principal Magistrate's Court at Eldama Ravine vide **Protection and Care Case Number 16 of 2015** formally committed the child to the Home. The child was declared free for adoption by Change Trust Adoption Society vide Certificate Number [xxxx] on 17th October 2017. On 23rd March 2018 the child was placed with the applicants for foster care. He has been with them since.

3. On 12th September 2019 the court appointed JWN as the guardian *ad litem* and ordered her 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 applicant and the other members of the family.

4. The court finds that it is in the best interest 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.

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 SNN and LMN are hereby allowed to adopt Baby VG alias VH alias VL;

b) Baby VG alias VH alias VL shall henceforth be known as VNN;

c) the child's date of birth shall be 5th September 2015 and shall be presumed Kenyan citizen having been surrendered for adoption by a Kenyan mother at Eldama Ravine District Hospital in Koibatek District in Kenya;

d) JNR is hereby appointed as the child's legal guardian 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;

f) the Director Immigration is directed to issue the child with a Kenyan passport; and

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

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

A.O. MUCHELULE

JUDGE