



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI

ADOPTION CAUSE NO. 17 OF 2020

IN THE MATTER OF THE CHILDREN'S ACT, 2001

AND

IN THE MATTER OF BABY AS aka UNKNOWN AFRICAN BABY BOY aka UNKNOWN AFRICAN MALE CHILD

SGM.....1ST APPLICANT

LWG.....2ND APPLICANT

JUDGMENT

By Originating Summons dated 10th February 2020 and filed on the same date, SGM and LWG, the Applicants, seek the following orders:

1. That the Applicants be authorized to adopt BABY AS aka UNKNOWN AFRICAN BABY BOY aka UNKNOWN AFRICAN MALE CHILD (the child).
2. That BABY AS aka UNKNOWN AFRICAN BABY BOY aka UNKNOWN AFRICAN MALE CHILD be known as WMG (WMG).
3. That the Registrar General be directed to enter the adoption into the Register of Adoptions.
4. That PWM and BMN be appointed as Legal Guardians of BABY AS aka UNKNOWN AFRICAN BABY BOY aka UNKNOWN AFRICAN MALE CHILD.
5. That the child be presumed to have been born in Kenya.

The Applicants have filed a Statement dated 10th February 2020 in support of the Originating Summons. From the contents of the Statement the Applicants are Kenya Citizens and holders of Identity Card numbers [...] and [...] respectively. They married under Kikuyu Customary Law in 2009 but solemnized that marriage at Nairobi Jesus Healing and Deliverance Ministry on 4th August 2013 (certificate of marriage is attached). They have one biological child, a daughter known as BN born on 22nd January 2010 (a certificate of birth is attached). They have also adopted a son DJG born on 12th July 2013 and Registered on 24th May 2017 (certificate of entry into Adopted Children Register is attached). The Applicants state that both children attend school at [particulars withheld] Academy.

The Applicants applied to Bunkner Kenya Adoption Services seeking to adopt a child to increase their family numbers. They were assessed and approved and Kardesh-Ber-Nea Children's Home paced the child under their custody on the 18th September 2019 for fostering. The Buckner Kenya Adoption Services Case Committee deliberated on the application by the Applicants to adopt the child and approved the application through a report signed by Dickson Masindano, Country Director, and Mary Kamiri, a social worker. They state that they have bonded well with the child and that the child has been accepted by the family.

Both Applicants are employed in church ministry at Nairobi [particulars withheld] where they are paid salaries. They own a four bedroomed house in Nairobi where the family lives. They say they are committed Christians and plan to raise the child in a Christian environment. They have attached documents to show that they have means to take care of the child.

Records from Buckner Kenya Adoption Services show that the child was found strangled and dumped in a pit latrine. He was rescued and taken to Elburgon District Hospital and later referred to Rift Valley Provincial General Hospital on 29th December 2017. The matter was reported at Nakuru Central Police Station and booked on OB No. [...]. No one claimed the child. On 16th January 2018 the Nakuru Sub-County Children Office referred the child to Kardesh-Ber-Nea Children's Home for care and protection where the child was admitted on 17th January 2018. Through Nakuru Children's Court in Care and Protection Case No. [...] the child was committed to Kardesh-Ber-Nea

Children's Home. Nakuru Central Police Station issued a second letter that their efforts to trace the mother or relatives of the child were not successful.

The child stayed in the Children's Home until 18th August when he was placed under the foster care of the Applicants. The child was declared free for adoption by the Buckner Kenya Adoption Services through their report dated 1st July 2020 and signed by the Country Director, Dickson Masindano and Social worker Mary Kamiri. A certificate declaring the child free for adoption was issued on 29th December 2017.

ON 16TH July 2020 this court appointed VWG as Guardian Ad Litem of BABY AS aka UNKNOWN AFRICAN BABY BOY aka UNKNOWN AFRICAN MALE CHILD. The court further directed the Guardian Ad Litem and the Director of Children Services to file their respective reports within 45 days. Both reports have been filed. That of the Guardian Ad Litem is dated 5th August 2020 and that of the Director of Children Services is dated 25th August 2020. Both reports found the Applicants suitable to adopt the child. The proposed Legal Guardians have filed their consent by way of an affidavit sworn on 10th February 2020.

I have considered this matter and the law governing adoptions in Kenya. I have also considered all the documents attached to the Originating Summons. I am satisfied that the law and procedure for adoptions in Kenya has been followed. The Applicants are well placed in society and have resources to take care of the child and their other two children. It is therefore my considered view that it is in the interest of justice and the best interests of the child that the Applicants be authorized to adopt the child. I allow the Originating Summons dated 10th February 2020 and issue an adoption order in the following terms:

1. That the Applicants are hereby authorized to adopt BABY AS aka UNKNOWN AFRICAN BABY BOY aka UNKNOWN AFRICAN MALE CHILD.
2. That BABY AS aka UNKNOWN AFRICAN BABY BOY aka UNKNOWN AFRICAN MALE CHILD shall be known as WMG.
3. That the Registrar General is directed to enter this adoption into the Register of Adoptions.
4. That PWM and BMN are hereby appointed as Legal Guardians of WMG.
5. That WMG shall be presumed to have been born in Kenya.
6. That Victoria Wanjiku Gitau is hereby discharged as Guardian Ad Litem.

Orders shall issue accordingly.

DATED, SIGNED AND DELIVERED THIS 8TH DAY OF APRIL 2021.

S. N. MUTUKU

JUDGE