



REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA
AT NAIROBI
ADOPTION CAUSE NO 169 OF 2019
IN THE MATTER OF

BABY L M ALIAS E Alias E N N Alias E N Alias E N N

AND

EA W K.....1ST APPLICANT

R N W.....2ND APPLICANT

JUDGMENT

EAWK and RNW, the Applicants herein, have come to court through Originating Summons dated 28th November 2019 and filed on 4th December 2019. They are seeking to adopt **BABY L M Alias E Alias E N N Alias E N Alias E N N (the child)**. They are seeking the following orders:

1. *Spent.*
2. THAT the Director Children's Department, Ministry of Labour, Social Security and Services investigate the Applicants' fitness to adopt the child and file a report.
3. THAT the Applicants be authorized to adopt **BABY L M Alias E Alias E N N Alias E N Alias E N N** and that the child to be known as **T K W**.
4. THAT the child be presumed a Kenyan Citizen by birth.
5. THAT the child's date of birth be 7th July 2018 and the place of birth be Meru Central.
6. THAT the Registrar General be directed to enter the adoption in the Adopted Children Register.
7. THAT the Director Immigration be authorized to issue the child with a Kenyan passport.
8. THAT **J R N K** and **M N N** be appointed Legal Guardians of the child in the event of the death or incapacity of the Applicants before the child is of age or independent.
9. THAT the court be pleased to make any further orders it deems necessary.

In their statement attached to the Originating Summons, the Applicants state that they state that they are Kenyan Citizens born in 1979 and 1984 respectively (they have attached their identity cards). They state that they married on 30th April 2011 and attached their Marriage Certificate No. [Particulars Withheld] to these pleadings. They state that they are both in gainful employment, the 1st Applicant is a Supplier Team Lead at iBuild Kenya Inc. and the 2nd Applicant is a Customer Service Assistant at Deversey E & C Africa LTD and that they are financially stable with assets and properties. They have attached copies of documents in support. They state that they are emotionally and physically fit and healthy to take care of the child. They state that they have never been charged with any criminal offence and attached copies of certificates of good conduct from the police. They state that they have been investigated by the Kenya Children's Adoption Society and found fit to adopt the child and that their family is supporting the adoption. They further state that they live in comfortable environment which is suitable for nurturing the child.

From the attached documents, the Applicants approached the Kenya Children's Home Adoption Society office on 5th September 2018 with the intention of being ratified for placement with two children, a male and female from any Children's Home. They were investigated and approved as suitable potential adoptive parents by the Kenya Children's Homes Case Committee sitting on 21st November 2018. They were subsequently placed with one the child herein.

The records in the court file show that the child was born underweight to one E N N on 7th July 2018 at Meru Teaching and Referral Hospital. He was abandoned in that hospital by his mother on 25th July 2018. The matter was reported to Meru Police Station and recorded on OB No. 20/26/ 07/2018. A Children's Officer took up the matter and sought and got a vacancy for the child at Neema House Infant Rescue Centre for care and protection. The child was admitted to the Centre and later committed there through court order from Meru Children's Court in Care and Protection Case No. 14 of 2019. The police at Meru Police Station confirmed that no one went to claim the child. Police efforts to trace the mother or relatives were unsuccessful .

The Kenya Children's Home Adoption Society declared the child free for adoption through a Child Freeing Report and Certificate No. 1562 dated 19th April 2019. I have read all the documents attached to these pleadings in respect of the child from Meru Teaching and Referral Hospital, Meru Police Station and Kenya Children's Home Adoptive Society. I have also read the Declaration Report for the Applicants prepared by the Kenya Children's Home Adoptive Society dated 29th January 2020. It is a detailed report and it recommends that the Applicants be allowed to adopt the child. The report also shows that the Applicants do not have a biological child.

James R N K and M N N the proposed Legal Guardians have given their consent through the Affidavit sworn on 20th November 2020 to be so appointed. On 1st October 2020 this court appointed **JNM**, of P.O Box 51290-00100 Nairobi as Guardian Ad Litem and directed that the Guardian Ad Litem and the Director Children Services investigate the suitability of the Applicants to adopt the child and file their respective reports within 45 days.

I have considered the Originating Summons and all the documents annexed. I have also read the report of the Guardian Ad Litem dated 27th November 2020 and that of the Director Children Services dated 18th October 2020. Both reports recommend that the Applicants be authorized to adopt the child.

In my considered view based on the pleadings and the documents attached, the law and procedure in respect of adoptions has been followed. The child has been declared free for adoption. The Applicants have been investigated and found suitable for adopting the child. They are both employed and have means to take care of the child. All the reports filed are positive and recommend that the Applicants are suitable for adopting the child. The child was abandoned and without the parents of the child or any other relative being available the necessary consents cannot be obtained. After my careful consideration of this matter I am satisfied that the orders sought should issue. I therefore allow the Originating Summons, issue the adoption order sought as follows:

1. THAT the Applicants be authorized to adopt **BABY L M Alias E Alias E N N Alias E N Alias E N N**.
2. THAT the child shall be known as **T K W**.
3. THAT the child is hereby presumed to be a Kenyan Citizen by birth.
4. THAT the child's date of birth shall be 7th July 2018 and the place of birth shall be Meru Central.
5. THAT the Registrar General is hereby directed to enter the adoption in the Adopted Children Register.
6. THAT the Director Immigration is hereby authorized to issue the child with a Kenyan passport.
7. THAT **J R N K** and **M N N** are hereby appointed Legal Guardians of the child in the event of the death or incapacity of the Applicants before the child is of age or independent.
8. THAT **JEDIDAH NJOKI MUIGAI** is hereby discharged from being Guardian *Ad Litem*.

Orders shall issue accordingly.

Dated, signed and delivered this 8th day of April 2021.

S. N.MUTUKU

JUDGE