



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA

AT NAIROBI

FAMILY DIVISION

ADOPTION CAUSE NO. 146 OF 2019 (OS)

IN THE MATTER OF THE CHILDREN ACT, 2001

AND

IN THE MATTER OF AN APPLICATION FOR AN ADOPTION OF BABY CK ALIAS CK (THE CHILD)

IN THE MATTER OF AN APPLICATION FOR ADOPTION BY

RMN.....APPLICANT

JUDGMENT

1. The applicant RMN is aged 54 years. She is a teacher at [Particulars Withheld] Secondary School in Kiambu. She is single and has no child of her own. On 28th October 2019 she filed this originating summons seeking to be allowed to adopt Baby CK alias CK.
2. Baby CK alias CK was born on 14th April 2015 at Kiambu District Hospital. On the following day the mother CK abandoned the child at the New Born Unit at the Hospital. The incident was reported at Kiambu Police Station vide OB No. [....]. The child was placed at Jean Petty Legacy Home by the Sub County Children Office. The child was formally committed to the Home by the Chief Magistrate's Court at Kiambu vide **Care and Protection Cause No. 61 of 2016**. Efforts to trace the mother or relatives of the child did not bear any fruits. On 30th September 2016 the child was declared free for adoption by Little Angels Network who issued certificate No. [.....]. The child had on 14th February 2016 been placed with the applicant for foster care. She has been with the applicant since.
3. On 6th February 2020 the court appointed DMG as the guardian *ad litem* and ordered him and the Director of Children Services to carry out a social inquiry on the applicant to determine her suitability to adopt the child, and to report within 45 days. The two reports were filed. Both recommended the applicant to adopt the child. It was found that the applicant was socially, emotionally and financially stable and suitable to adopt the child. It was also found that the applicant and other members of her family had bonded well with the child.
4. It is noted that the child was handed over to the applicant for foster care before it was declared free for adoption. Under **section 156(1)** of the **Children Act (No. 8 of 2001)** –

“(1) No arrangement shall be commenced for the adoption of a child unless the child is at least six weeks old and has been declared free for adoption by a registered adoption society in accordance with this rules prescribed in that behalf.”

5. However, it would not be in the best interest of the child to disrupt her life after she has been with the applicant for over 4 years and where she has bonded well with the applicant's family.
6. The court finds that it is in the best interest of the child to be adopted by the applicant. The applicant has demonstrated her capability to provide a conducive home and family environment in which the child will grow and develop. She will assume all parental rights and obligations of the biological parents of the child once adopted, and shall treat her as if he was born to her. She has 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 her property. The applicant shall not be able to give up the child owing to any subsequent unforeseen behaviour or other changes in the child. The consent of the mother of the child is dispensed with since the child was found abandoned.
7. Having found that all the conditions for a local adoption under the **Children Act** have been fulfilled, the court hereby issues the following order:-

a) the applicant RMN is hereby allowed to adopt Baby CK alias CK;

b) Baby CK alias CK shall henceforth be NWN;

c) the child's date of birth shall be 14th April 2015, and shall be presumed to be Kenyan citizen having born at Kiambu District Hospital in Kenya;

d) LN 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; and

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

DATED and DELIVERED at NAIROBI this 13th day of MAY 2021

A.O. MUCHELULE

JUDGE