

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT KIAMBU

ADOPTION CAUSE NO. 9 OF 2019

IN THE MATTER OF THE ADOPTION OF JJK aka JJ (MINOR)

BY

RIK.....1ST APPLICANT

SK.....2ND APPLICANT

JUDGMENT

1. The Applicants herein are RIK and SK. RIK (the 1st Applicant) is female and aged 42 years while SK (the 2nd Applicant, male) is aged 44 years. The 1st Applicant is a communications specialist while the 2nd Applicant is a lawyer. The couple has cohabited as man and wife since 2008 but formalized their union on 28th December, 2017 under the Marriage Act. The Applicants ascribe to the Christian faith. The Applicants have desired but due to medical reasons been unable to have their own biological children. Both Applicants are gainfully employed, grossing about Kshs. 380,000/- per month. They live in their own house in Kajiado County and own several parcels of land.

2. The Applicants have applied to adopt baby JJ, a male child, presumed to have been born on 1st January, 2018. He was found abandoned as an infant within Limuru Town on 31st January, 2018, and the matter reported to Tigoni Police Station vide OB no. 21/31/1 2018. On the same date, he was admitted into Limuru Children's Centre. On 1st February, 2018, Baby JJ was committed to the Home by the Children's Court, Limuru in Protection and Care case no. 10 of 2018 as efforts were made to trace his parents. Tigoni Police confirmed by their letter ref. C/GEN/6/11/Vol.1/38 of 7th September, 2018 that the parents could not be traced. Nobody had come forward to claim the subject minor as at November, 2018. On 21st November, 2018 the minor was declared free for adoption vide certificate No. 1513 issued by the Adoption Agency known as Kenya Children's Home Adoption Society. Under a care agreement executed between the Limuru Children's Home and the Applicants on 21st December, 2018, the minor was placed in the care of the Applicants and has remained under their care to date.

3. Pursuant to the orders made by this court on 24/10/2019, reports were filed by the guardian ad litem and the County Coordinator, Children Services Kajiado County. Both reports recommend the proposed adoption. It is apparent from the reports that the Applicants are in a stable marriage, they are mature and have the financial and other capacities required to give parental care to and to love and support the minor. The prospective adoptive parents have bonded well with the subject minor. The Applicants' motivation for the adoption is to have a child of their own whom they can nurture and love. The Applicants have a good social support system, including their extended families which have endorsed the proposed adoption.

4. The Applicants have apparently made suitable living arrangements and have provided for the subject since he was placed in their case, demonstrating in advance that they are ready to take on parental responsibility. According to the guardian ad litem, the subject has thrived in the care of the adoptive parents who appear happy, and contented.

5. In an application of this nature, the court must uphold the best interests of the child. See Article 53(2) of the Constitution and Section 4(3) of the Children's Act. Reviewing the material before me, there can be no doubt that the proposed adoption will be in the best interests of the minor. He will benefit from belonging in a family which loves and cares for him. On the other hand, the Applicants are qualified for a local adoption and have demonstrated capacity to care and provide for the subject. In the circumstances, the court allows prayer (2) of the Originating Summons dated 26th June, 2018. Additionally the court makes the following orders.

a) That the subject minor be presumed to be a Kenya citizen, and his date of birth presumed to be 1st January, 2018.

b) That henceforth, the adopted minor be known by the name proposed at paragraph 18 of the Applicants' joint affidavit dated 26th June, 2019 and sworn in support of the originating summons.

DELIVERED AND SIGNED ELECTRONICALLY ON THIS 7TH DAY OF MAY 2021.

C. MEOLI

JUDGE

IN THE PRESENCE OF:

Applicants: In person

Court Assistant: Kevin Ndege