

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA

AT KIAMBU

ADOPTION CAUSE NO. 4 OF 2019

IN THE MATTER OF BABY M. (A MINOR)

MGM.....1ST APPLICANT

EWK.....2ND APPLICANT

JUDGMENT

1. The Applicants herein are **MGM** (1st Applicant, male) and **EWK** (2nd Applicant, female). They are aged 49 and 44 years, respectively. They are couple, married since November 2011 and have one biological child **SWG** aged 11 years. The 1st Applicant is a teacher while the 2nd Applicant works as a cook.

2. The couple lives in their own home at M. village, Gacharage Gatundu South. They also own a piece of land at Murera, Ruiru. Their gross monthly income is about Kshs. 70,000/= per month.

3. The Applicants have applied to adopt baby M., a male minor now aged about 6 years. A Good Samaritan found him abandoned at Githurai 44 and reported to Kasarani Police Station vide OB No. 44 of 3rd January, 2016. He was initially admitted to Happy Life Children's Home before being formally committed to the home in Protection and Care Case No. 11 of 2016 at the Nairobi Children's Court. His parents could not be traced and nobody came forward to claim him. On 22nd August 2017, he was declared free for adoption by Change Trust, the Adoption Agency, vide certificate No. XXXXX of 22nd August, 2017. In July, 2017, the child had been placed under the Applicants' care through fostering and has remained in their care since then.

4. Pursuant to the order of this court on 26/09/2019, reports were filed by the Children's Officer and the guardian ad litem. The court has reviewed the reports as well as the social enquiry report on the Applicants. The Applicants appear to be in a stable and marital relationship. Both are emotionally mature and together have the necessary financial capacity to care for the minor. They have an older biological child whom they are also caring for. It seems that the subject minor has bonded well, not only with the Applicants but also with the said daughter who regards the subject minor as her brother. The couple's extended family support the proposed adoption.

5. The Applicants' motive for the adoption is to give a home to a homeless child but also to expand their family as the Applicants are unable to have a second child owing to medical complications. Both the guardian ad litem and the children officer recommend the adoption.

6. In considering an application of this nature, the court is obligated, in addition to ensuring that the Applicants qualify, to uphold the best interests of the child. See Article 53(2) of the Constitution and Section 4 (3) of the Children Act. In this case, the court having reviewed all the material placed before it, is satisfied that the Applicants do qualify for a local adoption.

7. Additionally, the court is satisfied that the proposed adoption will be beneficial and in the best interest of the subject minor. He will benefit from belonging in a family which loves and provides for him. He has already been enrolled in a school and has adapted well to his adoptive sibling and parents. In the circumstances, I hereby allow the originating summons in terms of prayers 1 to 4.

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

C. MEOLI

JUDGE

IN THE PRESENCE OF:

For the Applicants: Mr Mulinge HB for Mr Kamenchu.

Applicants...N/A.

Kevin Ndege: Court Assistant.