



REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA
AT KIAMBU
ADOPTION CAUSE NO. 12B OF 2019
IN THE MATTER OF THE CHILDREN ACT, 2001
AND
IN THE MATTER OF BABY AK (MINOR)

SSM1ST APPLICANT

AM.....2ND APPLICANT

JUDGMENT

1. Baby AK the subject of these proceedings was born on 22/08/2017 to one MWK at ML Hospital, Kiambu. A birth notification no. [Particulars withheld] was duly issued to the mother on the next day. On 1st September, 2017, the mother, in the company of her sister JMK, approached Change Trust, the adoption Agency in this case and offered the subject for adoption. The reason given for the decision was that the subject minor could not be kept by the mother because of **“a complicated family situation”**. Upon execution of the requisite initial consent and documentation, the subject minor was handed over to the adoption agency on 1st September 2017 and was admitted at New Life Home on the same day.

2. By an order of the Nairobi Children’s Court made in Protection and Care Case No. 566 of 2017 the subject was committed to the home on 17th November, 2017. On 14th December, 2017, the subject’s mother MWK executed the final consent to the adoption. The subject remained at New Life Home and was declared free for adoption by Change Trust vide certificate No. 00243 of 15th December 2017. On 21st September, 2018, the minor was placed in foster care with the Applicants herein pursuant to the foster care agreement executed on the same date.

3. The Applicants herein are SSM and AM. SSM, the male Applicant (1st Applicant) is aged 42 years while AM (2nd Applicant, female), is 40 years old. The Applicants were married under Islamic law in 2002 and reside in their own home at LK, Kiambu County where they also own a parcel of land. They are involved in business and have a joint income of about Shs. 50,000/- per month. Although they have desired to have their own biological children, they have not been fulfilled on account of medical complications. They now seek to adopt Baby AK.

4. Pursuant to the order made by this Court on 27/02/2020, the Children Officer Kabete and the guardian ad litem MM filed their reports. The Court has perused the reports and the entire record.

5. The social enquiry report, and reports by the Children Officer and the guardian ad litem indicate that the Applicants are healthy, willing, and capable of assuming parental responsibility over the subject minor. They have made suitable living arrangements for the subject in their home and life and have the financial capacity to provide for his needs. It is apparent that the child has bonded well with the adoptive parents, a fact noted by the court during the hearing of the originating summons. The sole motivation for the adoption is the Applicants’ desire to have a child of their own. Their extended family support the proposed adoption.

6. The court is obligated to uphold the best interests of the subject- see Section 4 (3) of the Children Act. The subject was given up by his biological mother for adoption. The subject will thrive and benefit from being rooted in a loving family where he belongs and is cared for. The court agrees with the recommendation by the Children Officer that the proposed adoption is in the best interests of the minor.

7. Reviewing all the material in respect of the Applicants, it is evident that they are qualified for a local adoption and that they have demonstrated their capacity to take on parental responsibility in the two years they have fostered the subject minor. In the circumstances, the court allows the originating summons dated 14th October, 2019 in terms of prayers 1, 2 and 3.

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

C. MEOLI

JUDGE

In the presence of:

Miss Muhanda for Applicants

Applicants: N/A

Kevin Ndege :Court Assistant