



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI

ADOPTION CAUSE NO. 152 OF 2019

IN THE MATTER OF THE CHILDREN'S ACT NO. 8 OF 2011

IN THE MATTER OF AN APPLICATION FOR THE ADOPTION OF BABY AM ALIAS LM

BY

SWM (APPLICANT)

JUDGMENT

1. The Applicant SWM is a spinster and does not have any children of her own. She wishes to adopt the female child known as AM through the summons dated 12th November, 2019. In her pleadings, the applicant states that she is a Manager at [particulars withheld]. She resides in [particulars withheld] in Kajiado County and professes the Christian faith.

2. The records produced in court indicate that the minor was presumably born on 30th April 2018 and abandoned on the same day according to Police OB No. xx/xx/x/xxxx reported at Timau Police Station. She was found and rescued by Mutethia area Chief in the company of a village elder, by the roadside in Mutethia area. The baby was then taken to Nanyuki teaching and referral hospital for medical attention where she was admitted on IP No. xxxx and discharged on 9th May, 2019. Upon discharge she was temporarily placed in the custody of Neema House Infant Rescue Centre for further care and protection.

3. On 11th May, 2018 the Resident Magistrate sitting in Nanyuki committed the child vide P & C 45 of 2018 to Neema House Infant Rescue Centre. On 31ST October 2018 Timau Police Station issued a final letter in which they confirmed that the biological parents of the child were not traced, nor did anyone come forward to claim the child. On 24th September, 2019 the Applicant took the child for purposes of foster care with a view of adopting. A foster care agreement was signed on 24th September, 2019.

4. Prior to the hearing of the adoption application, Little Angels Network prepared and filed a report dated 10th December, 2018. They also issued a Certificate Serial No. xxxx declaring the child free for adoption. The guardian ad litem CWK filed a report which was favourable and recommended the adoption of the child by the Applicant

5. An officer from the office of the Director of Children Services conducted home visits and established that the applicant is financially and emotionally capable of providing for the upkeep and education of the child. She filed a report dated 25th May, 2020 recommending the adoption for reasons that the child stands to gain from the opportunities provided by a stable home if she becomes a daughter of the Applicant and that the Applicant has fulfilled the statutory requirements.

6. This is a local adoption and from the record the Applicant has fulfilled all the legal requirements relating to the adoption of the child. The consent of the biological parents was dispensed with since the child was abandoned at infancy and the parents could not be traced to give the consent. The child who is now 3 years old was present virtually in court during the hearing and appeared to have bonded well with the Applicant. The Applicant appeared warm towards the child and the child appeared to be free with her.

7. I have examined the evidence herein bearing in mind that of paramount importance is the best interest of the child as required in Article 53 (2) of the Constitution and Section 4 (2) & (3) of the Children's Act. Consequently my considered view is that it is in the best interest of the child to be adopted by the Applicant. Reasons wherefore, I allow the prayers sought in the Originating Summons dated 12th November, 2019 and Order as follows:

i. The Applicant SWM be and is hereby allowed to adopt **AM** alias **LM** (minor) who shall henceforth be known as **AWN**

ii. Her date of birth shall be presumed to be 30th April, 2018. She is presumed to have been born in Kenya in accordance with Article **14(4)** of the **Constitution**, and the place of birth shall be Nairobi.

- iii. NSS and NMS are hereby appointed as the legal guardians in the event that the Applicant dies, or is incapacitated by ill health.
- iv. The Registrar General is directed to enter this Order in the Adopted Children's Register.
- v. The Director of Immigration is hereby authorised to issue the child with a Kenyan Passport.
- vi. The guardian ad litem is hereby discharged.

SIGNED DATED AND DELIVERED IN VIRTUAL COURT THIS 6TH DAY OF MAY, 2021.

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L. A. ACHODE

HIGH COURT JUDGE

In the presence ofAdvocate for the Applicant