



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI

ADOPTION CAUSE NO. 89 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 CR

BY

FMK AND MW

(APPLICANTS)

JUDGMENT

1. The Applicants FMK and MW are in a monogamous marriage which was solemnized in Nairobi on 8th April, 1995. They wish to adopt a female child known as Baby CR through the originating summons dated 25th June, 2019.
2. From the pleadings, the court gathers that the applicants FMK is photographer and a preacher, while MW is a farmer and a businesswoman. They reside in [Particulars Withheld] Location in Nairobi and both profess the Christian faith.
3. The records before the court indicate that the minor was presumably born on 23rd March, 2017. She was found abandoned at [Particulars Withheld] Area where she was rescued by a Good Samaritan on 16th October, 2017. The matter was reported to Meru Police Station where it was booked as OB No. xx/xx/xx/2017. From the police station the child was handed over to Neema House Infant Rescue Centre to provide temporary care and protection.
4. On 14th February, 2018 the Principal Magistrate sitting in Meru committed the child vide P & C 8 of 2018 to Neema Infant Rescue Centre. On 18th April, 2018 Meru Police Station issued a final letter in which they confirmed that the biological parents of the child could not be traced, nor did anyone come forward to claim the child. On 27th March, 2018 the Applicants took the child to foster care with a view of adopting. A foster agreement was signed on 27th March, 2018.
5. Prior to the hearing of the adoption application, Little Angels Network prepared and filed a report dated 4th May, 2018. They also issued a Certificate Serial No. [...] dated 4th May, 2018 declaring the child free for adoption. The guardian ad litem JWN filed a report dated 9th September, 2019 which was favourable and recommended the adoption of the child by the Applicants.
6. An officer from the office of the Director of Children Services conducted home visits and established that the applicants are financially and emotionally capable of providing for the upkeep and education of the child. She filed a report dated 10th August, 2020 recommending the adoption for reasons that the child stands to gain from the opportunities provided by becoming the daughter of the Applicants. That she will also gain and grow up in a stable home. The Applicants were found to have fulfilled the statutory requirements for adoption.
7. This is a local adoption and from the record the Applicants have 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 4 years old was present virtually in court during the hearing. She moved about freely and appeared to have bonded well with the Applicants.
8. From the foregoing, this court is of the considered view that it is in the best interest of the child to be adopted by the Applicants. Reasons wherefore, I allow the prayers sought in the Originating Summons dated 25th June, 2019 and Order as follows:

i. The Applicants FMK and MW be and are hereby allowed to adopt **Baby CR who shall henceforth be known as **CNM****

ii. Her date of birth shall be presumed to be on 23rd March, 2017. 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. PKM and PWN are hereby appointed the legal guardians in the event that the Applicants die, or are 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 Applicants