



**REPUBLIC OF KENYA**

**IN THE HIGH COURT OF KENYA AT NAIROBI**

**ADOPTION CAUSE NO. 127 OF 2019 (OS)**

**AND**

**IN THE MATTER OF THE CHILDREN'S ACT (NO. 8 OF 2001)**

**AND**

**IN THE MATTER OF BABY FB**

**AND**

**AN APPLICATION FOR ORDERS OF ADOPTION OF BABY FB**

**BY**

**SWK**

**JUDGEMENT**

1. By the Originating Summons dated 13.9.19, the Applicant SWK seeks to adopt a child known as Baby FB. The Applicant is single with no children of her own.
2. Baby FB who is estimated to have been born on 15.7.18 was found abandoned on 2.8.18 within in Nakuru at around 6.00 p.m. One PL who rescued the child, reported the matter at the AP Divisional Commander, Lanet Division vide Occurrence Book Number xx/x/8/2018. The child was later taken to New Life Home Trust Nakuru on 7.8.18 for temporary care and protection pending committal. On 16.8.18, the Children's Court at Nakuru *vide* Protection and Care Case Number 515 of 2018 formally committed the child to New Life Home Trust, Nakuru, for a period of 3 years. In a final letter dated 5.2.19, the AP Divisional commander Lanet confirmed that since the child was reported abandoned on 2.8.18, no one had come forward to claim her.
3. The Applicant was assessed by the Kenya Children Homes, and was found to have met all the requisite legal and social requirements. The case committee sitting on 21.3.19 did approved the Applicant as suitable and fit to adopt a child and the child was placed with the Applicant on 5.4.19.
4. When the hearing of this matter commenced in Court on 20.2.2020 MN was appointed guardian ad litem for the child pending the hearing and determination of the adoption application, in accordance with Rule 8 of the Adoption Rules.
5. The Applicant has gone through the requisite assessments, and reports in respect thereof have been duly filed. The report by Kenya Children's Home which arranged the adoption of the child was duly filed in Court. In compliance with Section 156 of the Children Act, Kenya Children's Home by its certificate serial number xxxx declared the child free for adoption on 21.3.19. For the Director of Children Services, Ezekiel Kimani, the Chief Children's Officer, Nairobi Children's Court filed a report dated 7.8.20 which was countersigned by MM, Assistant Director, Children Services. For her part, MN the guardian ad litem, filed her report dated 5.10.20. All these reports are favourable and recommend the adoption of the child by the Applicant.
6. It is noted that the child has been in continuous care and control of the Applicant for a period of over 2 years which is more than the statutory 3 months required under Section 157 of the Act. The Applicant is not younger than 25 years nor older than 65 years. She is more than 21 years older than the child. Section 158 of the Act has thus been complied with. The Applicant has been made aware of the consequences of an adoption order as well as the rights of an adopted child. She shall assume all parental rights and duties of the biological parents in respect of the child. I am satisfied that she fully understands that the adoption order is final and binding during the lifetime of the child and that the child shall have the right to inherit her property. The Applicant cannot under any circumstances give up the child. The Applicant has demonstrated that she has the psychological and emotional capacity as well as the material resources to raise the child in a

loving home environment. From my observation in Court the child appears to have bonded well with the Applicant. She proposes to name the child PZ.

7. The Applicant has nominated her sister CNK and her husband JNN to be the legal guardians of the child, in the event of the Applicants dying or becoming incapacitated before the child is of full age. The Court examined the proposed legal guardians and is satisfied as to their readiness, willingness and ability to be legal guardians of the child.

8. Having taken into account the foregoing factors, this Court has formed the opinion that it would be in the best interests of the child that she be adopted by the Applicant. The Court is further satisfied that all the legal requirements for a local adoption have been met and makes the following Orders as prayed in the Originating Summons herein:

- a) The Applicant SWK, holder of national identity card number xxxx is hereby allowed to adopt Baby FB, who shall henceforth be known as PZ.
- b) The child's date of birth is hereby declared to be 15.7.18.
- c) The child is hereby declared to be a Kenyan citizen by birth.
- d) I direct the Registrar General to enter this order in the Adoption Register.
- e) JNN holder of national identity card number xxxx and his wife CNK holder of national identity card number xxxx are hereby appointed legal guardians of the child in the event that the Applicant dies or is otherwise incapacitated before the child attains the age of 18 years.
- f) MN, the guardian *ad litem* is hereby discharged.

**DATED, SIGNED AND DELIVERED AT NAIROBI THIS 11TH DAY OF JUNE, 2021**

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**M. THANDE**

**JUDGE**

**In the presence of: -**

..... **for the Applicant**

..... **Court Assistant**