



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA

AT NAIROBI

ADOPTION CAUSE NO. 9 OF 2020 (OS)

AND

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

AND

IN THE MATTER OF BABY MM

AND

AN APPLICATION FOR ORDERS OF ADOPTION OF BABY MM

BY

EWW

JUDGEMENT

1. By her Originating Summons dated 22.1.20, the Applicant EWW seeks to adopt a child known as Baby MM. The Applicant is single with no children of her own.

2. Baby MM who is estimated to have been born on 18.11.18 is reported to have been abandoned by an unknown person in a bush at Maai Mahiu on the same day. The child was rescued by two Good Samaritans namely MNN of ID Number[....] and telephone no. [....] and DGW of mobile number [....] and ID Number[....]. The matter was reported at the Maai Mahiu Police Station vide Occurrence Book Number [....]. The child was referred to Naivasha County Referral Hospital for medical examination and care until 21.1.19 when she was admitted at Neema House Infant Rescue Centre for temporary care and protection pending committal. In Protection and Care Case Number [....] the Children's Court at Naivasha did on 17.1.19, formally commit the child to Neema House Infant Rescue Centre for a period of 3 years. The Maai-Mahiu Police Station in a final letter dated 24.6.19 confirmed that since the child was reported abandoned on 18.11.18, no one had come forward to claim her.

3. The Applicant was assessed by Little Angels Network Adoption Society, and was found to have met all the requisite legal and social requirements for adoption. The case committee sitting on 24.7.19 did approve the Applicant as suitable and fit to adopt a female child. The child was placed with the Applicant on 10.8.19.

4. MCR was on 9.7.2020 appointed as 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. In compliance with Section 156 of the Children Act, Little Angels Network which arranged the adoption of the child declared the child free for adoption on 24.7.19 and issued certificate serial number[....]. For the Director of Children Services, MA, the Principal Children's Officer filed a report dated 11.9.2020 which was countersigned by MM, Assistant Director, Children Services. For her part, MCR the guardian ad litem, filed her report dated 15.8.2020. All these reports are favourable and recommend the adoption of the child by the Applicant.

6. The child has been in continuous care and control of the Applicant for a period of about 1 year and 10 months 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 AMWW.

7. The Applicant has nominated her brother IGW and his wife TWG to be the legal guardians of the child, in the event of the Applicant 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 guardian 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:

9. The Applicant EWW, holder of national identity card number [...] is hereby allowed to adopt Baby MM, who shall henceforth be known as AMWW.

a. The child's date of birth is hereby declared to be 18.11.18.

b. The Child is hereby declared to be a Kenyan citizen by birth.

c. I direct the Registrar General to enter this order in the Adoption Register.

d. IGW holder of national identity card number [...] and his wife TWG holder of national identity card number [...] 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.

e. MCR, the guardian ad litem is hereby discharged.

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

M. THANDE

JUDGE

In the presence of: -

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

..... **Court Assistant**