



REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA
AT NAIROBI
ADOPTION CAUSE NO. E12 OF 2020
IN THE MATTER OF:
BABY C alias C.....THE CHILD
AND
JW.....1ST APPLICANT
CWN.....2ND APPLICANT
JUDGMENT

JW and CWN, the Applicants, are seeking to adopt Baby C alias C through an Originating Summons brought under Sections 132(12), 154, 156(1), 157(1), 158(1) (a), 160(1), (2), (3), (4), 161, 163, 164(1) and 170 of the Children Act No. 8 of 2001 and Section 24 of the Interpretation and General Provisions Act, Cap.2 Laws of Kenya and all enabling provisions of the law. The Applicants are seeking the following orders:

1. That RWC of P.O Box [...] Limuru, in the Republic of Kenya be appointed Guardian Ad Litem.
2. That the Director of Children's Department, Ministry of Labour, Social Security and Services investigate the Applicants' fitness to adopt and file a report.
3. That the Applicants be authorized to adopt Baby C alias C to be known as LGW.
4. That the child be presumed a Kenyan Citizen by birth.
5. That the child's date of birth be 23rd August 2017 and the place of birth be Karuri.
6. That the Registrar General be directed to enter this adoption in the Adopted Children Register.
7. That the Director of Immigration be authorized to issue the child with a Kenyan Passport.
8. That AWW be appointed the Legal Guardian of the child in the event of the death or incapacity of the Applicants before the child is of age or independent.
9. That the court be pleased to make any further orders as it deems necessary.

The Applicants are Kenyan citizens born on 7th July 1974 and 29th July 1977 respectively. They are employed and earn monthly salaries. They do not have a child of their own and decided to adopt a child in the meantime and grow their family. They live in (place withheld) in Nairobi in a one bedroom self-contained house. They have been fostering the child since 1st of May 2018. The child has been declared free for adoption by the Change Trust Adoption Society vide Certificate dated 15th December 2017. Change Trust Adoption Society conducted a Social Inquiry and Home Study of the Applicants and through its Case Committee sitting on 13th September 2017 approved the Applicants to adopt a child.

The Applicants are married as per the attached Certificate of Marriage dated 24th April 2010. They have been cleared by the Directorate of Criminal Investigations vide Certificates No. [...] dated 13th July 2017 and No. [...] dated 1st September 2016 respectively. They are

mentally and physically fit to adopt the child.

The proposed Legal Guardian, AWW, has given her consent to be so appointed vide her Affidavit sworn on 22nd July 2020.

Baby C was born on 23rd August 2017 at (place withheld). His mother FAA, a form three student aged 19 years approached Change Trust Adoption Agency on 28th August 2017 in company of DM, a Community Member and EO, a social worker at Nest Children's Home with the intention of giving up the child for adoption having been referred by the Westlands Sub-County Children's Officer. The mother of the child reported that she had conceived out of a rape incident. She reported that she was an orphan and was only living at the mercy of well-wishers. She was counselled on the implications of giving up the child for adoption. She signed the Explanatory Memorandum for Biological Parents/Guardian and the initial consent for adoption of the child witnessed by DM who acted as Guardian. The child was admitted to Nest Children's Home for care and protection on 25th August 2017. The child was committed to the Care and Protection of Nest Children's Home on 3rd November 2017 vide Nairobi Children's Home Care and Protection Case No. [...]. His mother FAA signed a Legal Consent on the 3rd November 2017 thereby confirming that the child can be offered for adoption.

I have noted all the documentation in respect of the process of committing the child at the Nest Children's Home; the birth notification and admission to the Nest Children's Home. I am satisfied that the mother willingly and voluntarily offered the child for adoption. I am also satisfied that the Applicants are better placed socially and financially to take care of the child and offer him a loving home, care and protection. I am satisfied that in the Applicants, the child will be able to find love, family and a good environment to grow in.

This court appoint RWC as Guardian Ad Litem on 8th October 2020. She has conducted social enquiry in respect of the child and the Applicants and has filed a report dated 2nd June 2021. The report is favourable and recommends adoption of the child by the Applicants. The Director of Children Services has also investigated the Applicants and found them fit to adopt the child in a report dated 16th June 2021.

The Applicants have the means to take care of the child. They have also bonded well with the child. The child has been accepted by the extended family and seems well settled in the family. The child has been given the name of the 1st Applicant's father.

I am satisfied with the adoption process. It is my considered view that the provisions of the Children Act have been complied with. I therefore find the Applicants fit to adopt the child and I hereby grant them an adoption order and allow the Originating Summons in the following terms:

1. That JW and CWN, Applicants herein, are authorized by this court to adopt Baby C alias C to be known as LGW.
2. That LGW is presumed to be a Kenyan Citizen by birth.
3. That the LGW's date of birth shall be 23rd August 2017 and the place of birth shall be Karuri.
4. That the Registrar General is hereby directed to enter this adoption in the Adopted Children Register.
5. That the Director of Immigration is hereby authorized to issue the child with a Kenyan Passport.
6. That AWW is hereby appointed the Legal Guardian of the child in the event of the death or incapacity of the Applicants before the child is of age or independent.
7. That RWC is discharged as Guardian Ad Litem.

Orders shall issue accordingly.

DATED, SIGNED AND DELIVERED THIS 15TH DAY OF JULY 2021

S. N. MUTUKU

JUDGE