



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI

ADOPTION CAUSE NO. E011 OF 2020 (O.S)

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

IN THE MATTER OF AN APPLICATION FOR THE ADOPTION OF A BABY SZ

BY

ZKM AND SML

(APPLICANTS)

JUDGMENT

1. The Applicants ZKM and SML are in a monogamous marriage which was solemnized at [Particulars withheld] Church in Nairobi on 1st May, 2008 as evinced by the Certificate of Marriage Serial No. xxxxxx. They have one child whom they adopted and wish to adopt a female child known as Baby SZ through the originating summons dated 14th July, 2020.
2. The pleadings indicate that the 1st Applicant ZKM is a lab technologist at [Particulars Withheld] and SML, the 2nd Applicant is a Network Engineer at [Particulars Withheld]. They reside in Nairobi County and both profess the Christian faith.
3. The records before the court indicate that the minor in this matter was presumably born on 12th September, 2018 and was found abandoned in Githurai 45 area where she was rescued by a Good Samaritan. The matter was reported at Githurai Kimbo Police Station where it was booked as OB No. [xxxx]. From the police station the child was handed over to New Life Home Trust for care and protection pending a committal order.
4. On 27th November, 2019, the Resident Magistrate sitting in Nairobi committed the child vide P & C xxxx to New Life Home Trust. On 8th November, 2019 Githurai Kimbo Police Station issued a final letter confirming that the biological parents of the child were not traced, nor did anyone come forward to claim the child. On 7th February, 2020 the Applicants took the child into foster care with a view of adopting. A foster agreement was signed on the same day.
5. Prior to the hearing of the adoption application, Kenya Children's Home Adoption Society prepared and filed a report dated 18th December, 2019. They also issued a Certificate Serial Number xxxx declaring the child free for adoption. The guardian ad litem MMMK filed a report dated 28th October, 2020 which was favourable and recommended the adoption of the child by the Applicants.
6. An officer from the Department of Children's 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 18th October, 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 gain a family 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 their consent. The child who is now 2 years old was present virtually in court during the hearing and appeared to have bonded well with the Applicants. The Applicants appeared warm towards the child and the child appeared to be free with them.
8. I also note that the 1st applicant was born on 26th June, 1974 and is 47 years old while the 2nd applicant was born on 21st April, 1975 and is therefore 46 years old. They are therefore within the age bracket eligible to adopt being adults having attained the age of twenty-five years and are at least twenty-one years older than the child but have not attained the age of sixty-five years as provided by **Section 158 (1) (a)** of the Children's Act No. 8 of 2011.
9. 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 14th July, 2020 as follows:

- i. The Applicants ZKM and SML be and are hereby allowed to adopt **Baby SZ** who shall henceforth be known as **ABL**.
- ii. Her date of birth shall be 12th September, 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. FL is hereby appointed the legal guardian 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 15TH DAY OF JULY, 2021.

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L. A. ACHODE

HIGH COURT JUDGE

In the presence ofAdvocate for the Applicants