



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI

ADOPTION CAUSE NO. 23 OF 2020 (OS)

AND

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

AND

IN THE MATTER OF BABY ED alias BABY EDA

AND

AN APPLICATION FOR ORDERS OF ADOPTION OF BABY ED alias BABY EDA

BY

JIA and his wife DAO

JUDGEMENT

1. By the Originating Summons dated 6.2.20 the Applicants JIA and DAO seek to adopt a child known as Baby ED alias Baby EDA. The Applicants were assessed by Kenya to Kenya Peace Initiative Adoption Society, a registered adoption society and taken through the adoption process and its implications. The society's case committee sitting on 31.1.19 found the Applicants to have met the legal and social requirements for adopting a child. Following their approval, the child was placed with the Applicants on 29.3.19.

2. Baby ED alias Baby EDA was born on 14.8.18 to one MKM of national identity card number xxxxxx. The child's mother approached Kenya to Kenya Peace Initiative Adoption Society, where she offered the child for adoption for reasons that she had no means of raising the child and the father offered no support. Her parents were also not willing to let her stay at home as long as she had the baby with her. M was taken through the memorandum of offering child up for adoption and after understanding the same signed a certificate of acknowledgment on 16.8.18. By her affidavit sworn on 17.12.18 M gave her unconditional and unequivocal consent for the child to be adopted. The child was admitted at the New Life Home on 16.8.18 for care and protection pending committal. On 6.3.19 the Children's Court at Nairobi vide Protection and Care Case Number xxx of 2019 formally committed the child to the same home for a period of 3 years. The child was declared free for adoption by Kenya to Kenya Peace Initiative Adoption Society on 6.3.19 vide certificate serial no. xxx.

3. This Court did on 28.5.2020 appoint KK 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.

4. The Applicants have gone through the requisite assessments, and reports in respect thereof have been filed. Kenya to Kenya Peace Initiative Adoption Society which arranged the adoption of the child filed its report dated 26.5.2020. For the Director of Children Services was filed a report dated 17.8.20 by Ezekiel Kimani, Principal Children's Officer and countersigned by Mary Mbuga, Assistant Director. KK the Guardian *ad litem*, also filed her report on 3.7.20. I have carefully assessed the said reports. They are all favourable, and recommend the proposed adoption.

5. The child has been in continuous care and control of the Applicants for a period of about 2 years 3 months which is more than the statutory 3 months required under Section 157 of the Act. The Applicants are not younger than 25 years nor older than 65 years. They are more than 21 years older than the child. Section 158 of the Act has thus been complied with. The Applicants have been made aware of the consequences of an adoption order as well as the rights of an adopted child. They shall assume all parental rights and duties of the biological parents in respect of the child. I am satisfied that they fully understand that the adoption order is final and binding during the lifetime of the child and that they cannot under any circumstances give up the child. They further understand that the child shall have the right to inherit their property. The Applicants have demonstrated that they have the psychological and emotional capacity as well as the material resources to raise the child in a loving home environment. The Applicants propose to name the child EDI.

6. The Applicants have nominated RNN to be the legal guardian 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 guardian and is satisfied as to his readiness, willingness and ability to be legal guardian of the child.

7. 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 he be adopted by the Applicants. 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 Applicants JIA holder of national identity card number xxxxxx and his wife DAO holder of national identity card number xxxxxx are hereby allowed to adopt Baby ED *alias* Baby EDA who shall henceforth be known as EDI.
- b) I direct the Registrar General to enter this order in the Adoption Register.
- c) RNN holder of national identity card number xxxxxx is hereby appointed legal guardian of the child in the event that the Applicants die or are otherwise incapacitated before the child attains the age of 18 years.
- d) KK, the guardian *ad litem* is hereby discharged.

DATED, SIGNED AND DELIVERED AT NAIROBI THIS 9TH DAY OF JULY, 2021

M. THANDE

JUDGE

In the presence of: -

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

..... **Court Assistant**