



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI

ADOPTION CAUSE NO. 12 OF 2019

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

IN THE MATTER OF AN APPLICATION FOR THE ADOPTION OF BABY EY

MM (APPLICANT)

JUDGMENT

1. The Applicant MM is a spinster and does not have any children of her own. She wishes to adopt the female child known as Baby EY through the originating summons dated 25th January, 2019. In her pleadings, the applicant states that she is a medical practitioner. She resides in [Particulars Withheld] Estate in Nairobi County and professes the Christian faith.

2. The records produced in court indicate that the minor was presumably born on 17th November, 2016 as evinced by the birth notification serial no xxxxxxx. She was found abandoned in Imara Daima Estate where she was rescued by a Good Samaritan. The matter was reported to Villa Police Post vide OB No. [xxxx]. She was admitted at Mbagathi Hospital for medical attention. Upon discharge she was temporarily placed in the custody of New Life Home Trust for further care and protection.

3. On 15th February, 2017 the Senior Resident Magistrate sitting in Nairobi committed the child vide P & C 38 of 2017 to New Life Home Trust. On 23rd October, 2017 Villa Police Post 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 27th November, 2017 the Applicant took the child for purposes of foster care with a view of adopting. A foster care agreement was signed on the same day.

4. Prior to the hearing of the adoption application, KKPI Adoption Society prepared and filed a report dated 10th May, 2019. They also issued a Certificate Serial No. xxx declaring the child free for adoption. The guardian ad litem GVC filed a report dated 15th February, 2020 which was favourable and recommended the adoption of the child by the Applicant

5. An officer from the office of the Director of Children Services conducted home visits and established that the applicant is financially and emotionally capable of providing for the upkeep and education of the child. She filed a report dated 3rd June, 2020 recommending the adoption for reasons that the child stands to gain from the opportunities provided by a stable home if she becomes a daughter of the Applicant and that the Applicant has fulfilled the statutory requirements.

6. This is a local adoption and from the record the Applicant has 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 the consent. The child who is now 4 years old was present virtually in court during the hearing and appeared to have bonded well with the Applicant. The Applicant interacted well with the child and the child appeared to be free with her.

7. I also note that the sole applicant was born on 24th October, 1983 and is therefore 37 years old. She is therefore within the age limit bracket eligible to adopt being an adult having attained the age of twenty-five years and is at least twenty-one years older than the child but has not attained the age of sixty-five years as provided by **Section 158 (1) (a)** of the Children's Act No. 8 of 2011.

8. I have examined the evidence herein bearing in mind that of paramount importance is the best interest of the child as required in **Article 53 (2)** of the Constitution and **Section 4 (2) & (3)** of the Children's Act. Consequently my considered view is that it is in the best interest of the child to be adopted by the Applicant. Reasons wherefore, I allow the prayers sought in the Originating Summons dated 25th January, 2019 and Order as follows:

i. The Applicant MM be and is hereby allowed to adopt **Baby EY** who shall henceforth be known as **MM**.

ii. Her date of birth shall be presumed to be 17th November, 2016. 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. MNM is hereby appointed as the legal guardian in the event that the Applicant dies, or is 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 8TH DAY OF JULY, 2021.

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L. A. ACHODE

HIGH COURT JUDGE

In the presence ofAdvocate for the Applicant