

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT KISII

ADOPTION CAUSE NO. 6 OF 2017

IN THE MATTER OF AN APPLICATION FOR THE ADOPTION BY

DBR

AND

IN THE MATTER OF ADOPTION OF IPNR

DBR..... APPLICANT

JUDGEMENT

1. By her amended Originating Summons dated 12th April 2021, the applicant, **DBR** seeks to be authorised to adopt **IPNR**. She also prays for orders that the consent of the biological mother of the minor be dispensed with and that she be allowed to live with the minor out of this country if and when necessary.
2. The minor is the applicant's grandchild. The applicant claims that her daughter abandoned the minor at the hospital where he was born and he has since been in her custody, care and control. She swore an affidavit of fitness deposing that she is medically fit and financially capable of providing for the minor. She annexed copies of a medical recommendation and bank statements in support of these averments.
3. The applicant's husband PCR also swore an affidavit of consent deposing that their objective for making the application was to ensure the well-being of the minor.
4. KKPI Adoption Society issued a report concerning the child which was filed in court on 24th February 2021. The report indicates that the child was born on 27th October 2016 to AMR who gave up the child to her parents for adoption on 15th October 2021. The Society states that they took the minor's mother through the parent or guardian memorandum for giving up a child for adoption and she had signed the certificate on 15th February 2021 and written a letter on the same day consenting to her parents taking over responsibility for her son. The report further states that the minor's biological mother signed a final consent on 22nd February 2021. The Society therefore declared the minor free for adoption under Section 156 (1) of the Children Act and the adoption regulations and issued a certificate to that effect dated 22nd February 2021.
5. Sammy Korir, the County Coordinator, Children Services Nyamira filed a report dated 26th February 2021 recommending the adoption of the minor by the applicant. His report gives background of the prospective mother and the child and indicates that the minor's biological mother abandoned him after birth. He adds that the minor had a sibling who died aged 1 year and 6 months and his death had been attributed to the mother's negligence. The children officer further states that he interviewed the applicant, the minor's biological mother and had sought information from other close family members and they were all agreeable to the proposed adoption of the minor by the applicant. The officer observes that the minor has bonded well with the applicant and therefore recommends that he be adopted by the applicant.
6. After reviewing the application, I find that it is in the best interest of the minor that he be adopted by the applicant. The adoption agency has stated that the child was abandoned by his biological mother at a very tender age and remained in the applicant's custody since then. According to the adoption agency and the County Coordinator, Children Services the minor's biological mother consented to the adoption of the minor by the applicant. The prayer seeking that the consent of the biological mother be dispensed with is therefore expendable.
7. In end, I allow the applicant, **DBR** to adopt **IPNR** henceforth. The applicant is hereby allowed to live with the minor out of the country if and when necessary. The registrar shall make the appropriate entries of **IPNR** in the adopted children's register.

DATED, SIGNED AND DELIVERED AT KISII THIS 7TH DAY OF JULY 2021.

A.K. NDUNG'U

JUDGE