



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI

MILIMANI LAW COURTS

FAMILY DIVISION

ADOPTION CAUSE NO. E006 OF 2021 (OS)

IN THE MATTER OF THE CHILDREN ACT, 2001

AND

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

IN THE MATTER OF AN APPLICATION FOR ADOPTION BY

OKK.....APPLICANT

JUDGMENT

1. The applicant OKK is a single Kenyan woman aged 58years. She is a business woman. She is a divorcee, having been married to Mr. ESW from the year 1991 to 1996. The *Decree Nisi* was made absolute on 19th June 2001. The union had no issues. She has no desire to remarry. She filed this originating summons dated 25th November 2020 seeking to adopt Baby LW.

2. The Baby LW was born on the 30th August 2017 at Cristal Medical Clinic in Kongowea in Mombasa. She was abandoned immediately after birth at the said Clinic. The matter was reported to Makupa Police Station vide OB No. [...]. Police got in touch with the sub-county Children Officer who temporarily placed the child at Baby Life Rescue Centre. She was formally committed to the Centre by the Tononoka Children Court in **Protection and Care Case No. [...]**. Police efforts to trace the mother or relatives of the child were not successful. On 30th January 2019 the child was declared free for adoption and certificate No. [...] issued by Change Trust Adoption Society. The Applicant has been with the child since the 1st March 2019 the child was placed with her for foster care.

3. On 4th March 2021 the court appointed LWK as the guardian *ad litem* and ordered her and the Director of Children Services to separately carry out a social inquiry on the applicant to determine her suitability to adopt the child. The two reports were filed. Both recommended the applicant to be allowed to adopt the child. The reports found that the applicant was socially, emotionally and financially stable and suitable to adopt the child. It was also found that the child had bonded well with the applicant.

4. The court finds that it is in the best interest of the child to be adopted by the applicant. The applicant has demonstrated her capability to provide a conducive home and family environment in which the child will grow and develop. She will assume all parental rights and obligations of the biological parents of the child once adopted, and shall treat her as if she was born to her. She has been made aware that once the adoption order is made, it shall be final and binding during the lifetime of the child. The child shall have the right to inherit her property. The applicant shall not be able to give up the child owing to any subsequent unforeseen behaviour or other changes in the child. The consent of the mother of the child is dispensed with as the child was found abandoned.

5. Having been satisfied that all the legal requirements for a local adoption under the **Children Act** have been met, the following orders shall issue:-

a) the applicant OKK is hereby allowed to adopt Baby LW;

b) Baby LW shall henceforth be known as LMK

c) the child's date of birth shall be 30th August, 2017, and shall be presumed Kenyan citizen having born at Cristal Medical Clinic in Kongowea in Mombasa County in Kenya;

d) SMK is hereby appointed as the child's legal guardian in the event of the death or incapacity of the applicant before she is of full age and fully self-reliant;

e) the Registrar-General is directed to enter this adoption in the Adopted Children Register; and

f) the guardian *ad litem* is hereby discharged.

DATED AND DELIVERED AT NAIROBI THIS 1ST DAY OF JULY 2021.

A.O. MUCHELULE

JUDGE