In re A alias JN1 (Baby) (Adoption Cause 22 of 2016)
[2021] KEHC 170 (KLR) (13 October 2021) (Judgment)

In re of A (Baby) [2021] eKLR

Neutral citation: [2021] KEHC 170 (KLR)

REPUBLIC OF KENYA

IN THE HIGH COURT AT MACHAKOS

ADOPTION CAUSE 22 OF 2016

MW MUIGAI, J

OCTOBER 13, 2021

JUDGMENT

1. Through an Application by Originating Summons dated 1st August, 2016 and filed on the same date, the Applicants DMM and BNN sought to adopt Baby A alias JN1 the child in this matter. The Applicants were married in the year 1996 under customary marriage and then solemnized their union on 29/12/2012 vide marriage certificate No. xxxx. Both applicants are self – employed. Their marriage has been blessed with one biological child named LMM born in November, 1997. Baby A alias JN1 is an adopted child to the Applicants born on the 14/02/2010, he is now a grade five in school.

2. The child who is the subject of these adoption proceedings Baby A alias JN1 was born in Kenya on the 14/02/2010 to one JN2 at Pumwani Maternity Hospital in Nairobi. The mother of the child had visited Child Welfare Society of Kenya with intentions of offering her child for adoption on 29/01/2010 prior to the birth of the child a decision she made due to the fact that the father to the child did not acknowledge paternity and she was a student thus unable to raise the child due to financial problems. The mother relinquished her rights upon giving consent and giving up the child for adoption with "CWSK". The Baby remained in the Hospital until 08/03/2010 when he was rescued by Child Welfare Society of Kenya (CWSK) and placed at CWSK's Karen Foster Family. On the 19th day of May, 2010 the mother to the child went to CWSK's office and filled subsequent forms relinquishing her rights as the mother of the child. Baby JN1 remained in the temporary place of safety until 25/05/2010 when he was placed with the Applicants pending adoption.

3. The child was declared free for adoption by the Kenya Children's Home Adoption Society on the 21st May, 2010 as per Section 156 of the Act. This is confirmed by freeing Certificate Serial No. xxxx.

4. The Guardian ad Litem, JNM a social worker at Sama Source Limited who was appointed on the 19th December, 2019 wrote a report on the suitability of the Applicants as potential adoptive parents and the welfare of the child while being fostered by the Applicants. The Report was filed on 28/06/2021. During her visit to the Applicants' home and the interview of the Applicants, she noticed that the child has settled well in the family and happy and quite comfortable in interacting with both parents and

has also bonded well with his foster parents. There was also another biological child LM who supports the adoption. The Guardian ad Litem fully recommended the Adoption.

5. A report dated 27/07/2021 in respect of the proposed adoption of the child by the Applicants was prepared by the Director of Children's Services, and this report was similarly in favour of the proposed adoption and recommended the same since the Applicants have bonded well with the minor for over 10 years having received him under their care at the age of 3 months. The Applicants are financially stable and have enrolled the minor in a good school.

6. Antonia Mutunga Social worker from the Child Welfare society of Kenya wrote a report dated 31/05/2017 recommending the suitability of the Applicants as potential adoptive parents as they were found to be financially stable and have bonded well with the child. They also have their own biological child who has also bonded well the child. The environment was found to be conducive for the child who was placed within them in May, 2010.

7. This court finds that the adoption in question is in the best interest of the child as he will grow up within a family of his own instead of an institution. The Applicants have fulfilled all the legal requirements necessary for a local adoption and have been proven to be suitable potential adoptive parents. The filed Reports by the CWSK, Children Services and Guardian Ad Litem are favourable to adoption of the child by the Applicants.

8. The Applicants were assessed and found to be financially stable from their incomes and well capable of raising another child. The Applicants are well aware that an order of adoption grants the child inheritance rights to their property and they have no objection to it.

9. The Applicants, DMM and BNN hereby authorized to adopt the child Baby A alias JN1. The Legal Guardian is AN. The child shall therefore be known as FMD and his place of birth shall be Pumwani Maternity – Nairobi. He is therefore presumed to be a Kenyan Citizen by birth.

10. The Registrar General is hereby directed to enter this order in the Adoption Register.

11. The Guardian ad litem is hereby discharged.

It is so ordered.

READ AND DELIVERED IN OPEN COURT AT MACHAKOS THIS 13th DAY OF OCTOBER, 2021

MARGARET W. MUIGAI

JUDGE