



REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA
AT NAIROBI
FAMILY DIVISION
ADOPTION CAUSE NO. E026 OF 2021(OS)
IN THE MATTER OF THE CHILDREN ACT, 2001
AND
IN THE MATTER OF BABY PM
IN THE MATTER OF AN APPLICATION FOR ADOPTION BY

JNM.....1ST APPLICANT

MMK.....2ND APPLICANT

JUDGMENT

1. The applicants JNM and MMK are a Kenyan couple aged 60 years and 53 years, respectively. The 1st applicant is sales executive at Mombasa [Particulars Withheld] Ltd while the 2nd applicant is a clerk at [Particulars Withheld] County Town Clerk Department. They got married under Kikuyu customary law in 1990 and solemnized the same on the 4th April 2018 under the certificate of marriage number [Particulars Withheld]. The couple does not have any children. On 27th March 2021 they filed the originating summons dated 11th March, 2021 seeking to adopt the Baby PM.

2. Baby PM was born on the 2nd October 2016 to MAK at Kenyatta National Hospital as indicated in the birth notification serial number [Particulars Withheld]. The baby was then abandoned on the 3rd October 2016 in the same institution where it was admitted at the New Born Unit under IP 18xxxxx. The matter was reported to Kenyatta Police Station vide OB No. xx/x/xx/2016. The baby was temporarily placed at Imani Rehabilitation Agency for Abandoned Children on the 25th November 2016. She was formally committed to the said institution by the Nairobi Children Court in **Protection and Care Case No. 89 of 2017** on the 29th March 2017. The final police letter is dated the 4th July 2018 and indicated that all efforts to trace the mother or relatives of the child were not successful. On 3rd August 2018 the child was declared free for adoption and certificate No. 0306 issued by Buckner Kenya Adoption Services. The applicants have been with the child since the 17th May 2019 when the child was placed with them for foster care.

3. On 27th May 2021 the court appointed GWK as the guardian *ad litem* and ordered her and the Director of Children Services to separately carry out a social inquiry on the applicants to determine their suitability to adopt the child. The two reports were filed. Both recommended the applicants to be allowed to adopt the child. The reports found that the applicants were socially, emotionally and financially stable and suitable to adopt the child. It was also found that the child had bonded well with the applicants.

4. The court finds that it is in the best interest of the child to be adopted by the applicants. The applicants have demonstrated their capability to provide a conducive home and family environment in which the child will grow and develop. They 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 them. They have 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 their property. The applicants 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 hereby dispensed with as she 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 applicants JNM and MMK are hereby allowed to adopt Baby PM;

b. Baby PM shall henceforth be known as IW;

c. the child's date of birth shall be 2nd October 2016, and shall be presumed Kenyan citizen having born at Kenyatta Hospital in Nairobi County in Kenya;

d. BWW is hereby appointed as the child's legal guardian in the event of the death or incapacity of the applicants 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 NAIROBI THIS 18TH DAY OF NOVEMBER 2021

A.O. MUCHELULE

JUDGE