



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA

AT NAIROBI

MILIMANI LAW COURTS

FAMILY DIVISION

ADOPTION CAUSE NO. E048 OF 2021

IN THE MATTER OF THE CHILDREN ACT, NO. 8 OF 2001

AND

IN THE MATTER OF CHILD S.N.W.

AND

IN THE MATTER OF APPLICATION FOR ADOPTION BY

AEU.....APPLICANT

JUDGMENT

1. The Applicant AEU is a British citizen, working and residing in the United Kingdom. She, however, owns properties in Karen and Othaya. She was born on the 15th May 1994 in Nairobi in Kenya to a Kenyan parent. She lives with JP and the two hope to formalise their relationship. The two have been blessed with two daughters. On the 31st May 2021 the applicant applied to be allowed to adopt S.N.W. JP consented that she be the sole applicant in the cause.

2. This is a kinship adoption. Child SNW. was born on the 7th February 2007 in Thika to one LWM. She is fourteen (14) years old. LWM is not in a position to take care of the child as she is aged, ailing and unemployed. The applicant is the maternal cousin to the child. She is the one who has been taking care of the child and the mother. On 26th October 2021 the child was declared free for adoption by KKPI Adoption Society under Certificate No. XXX.

3. On 24th June 2021 the court appointed GD 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. Under section **158(1)(a)** of the **Children Act** it is required that an applicant seeking to adopt should be at least 25 years and is at least 21 years older than the child. However, under **section 158(1)(b)**, it is noted that the applicant is a relative of the child, and therefore the issue of age between the two will be disregarded. They are separated by 13 years.

5. 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 and spouse have been provided.

6. 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 AEU is hereby allowed to adopt Child SNW.;
- b) Child SNW. shall henceforth be known as SN and her date of birth shall be 7th February 2007;
- c) the child is Kenyan having been born to a Kenyan mother in Kenya;
- d) WU 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 11th day of NOVEMBER 2021.

A.O. MUCHELULE

JUDGE