



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI

FAMILY DIVISION

ADOPTION CAUSE NO. E033 OF 2021(OS)

IN THE MATTER OF THE CHILDREN ACT, 2001

AND

IN THE MATTER OF CHILD D.

IN THE MATTER OF AN APPLICATION FOR ADOPTION BY

BEOM.....1ST APPLICANT

EAO.....2ND APPLICANT

JUDGMENT

1. The applicants BEOM and EAO are a Kenyan couple aged 52 years and 46 years, respectively. The 1st applicant is an engineer while the 2nd applicant is a sales account manager. They got married under Luo customary law sometimes in 1999. They solemnized their marriage at the Registrar's Office at Nairobi, Kenya on the 8th June 2007. The couple is blessed with two (2) children. On 18th June 2021 they filed this originating summons dated 15th June 2021 seeking to adopt Child D.

2. Child D. is estimated to have been born on the 18th April 2019. He was found abandoned at [Particulars Withheld] by three (3) good samaritans namely CGJ, Dr. PMM and JM. They reported the matter to Langata Police Station vide OB No. xxxx. The child was then taken to St. Mary's Mission Hospital, Langata for a medical check-up and was confirmed to be medically fit. On the 22nd April, 2019, the child was temporarily placed at Kenya Children's Home (Thomas Barnardo House). He was formally committed to the Home by the Milimani Children Court in **Protection and Care Case No. xxxx of 2019** on the 14th August 2019. Police efforts to trace the mother or relatives of the child were not successful. On 5th August 2020, the child was declared free for adoption and Certificate No. xxxx issued by the Kenya Children's Homes Adoption Society. The applicants have been with the child since the 21st August 2020 when the child was placed with them for foster care.

3. On 26th July, 2021 the court appointed TLO as the guardian *ad litem* and ordered him 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 them.

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 him as if he 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 he 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 BEOM and EAO are hereby allowed to adopt Child Destiny;

b) Child D. shall henceforth be known as IOM;

c) the child's date of birth shall be 18th April 2019, and shall be presumed Kenyan citizen having been found abandoned in Langata Kenya;

d) JRA and DO are hereby appointed as the child's legal guardians in the event of the death or incapacity of the applicants before he 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 ELECTRONICALLY AT NAIROBI THIS 9TH DAY OF DECEMBER 2021.

A.O. MUCHELULE

JUDGE