



REPUBLIC OF KENYA

IN THE HIGH COURT AT NAIROBI

ADOPTION CAUSE NO. E050 OF 2021

IN THE MATTER OF THE CHILDREN'S ACT NO. 8 OF 2011

IN THE MATTER OF AN APPLICATION FOR THE ADOPTION OF BABY J (THE CHILD)

BY

KWM (APPLICANT)

JUDGMENT

1. The Applicant KWM is a single woman who has never been married before. She has no biological children and wishes to adopt the female minor known as baby J alias S through Originating Summons dated 5th May 2021.
2. From the pleadings, the court gathers that the Applicant KWM is a businesswoman running her own salon. She resides in Huruma estate, within Nairobi County and professes the Christian faith.
3. Records before the court indicate that the minor in this matter was presumably born on 19th September 2018. She was abandoned by her mother at Githogoro slums in Nairobi in the home of one MW. The matter was reported to Runda Police Station and booked under OB No. xx/xx/xx/2018.
4. On 31st October 2018, the Children's Court Nairobi committed the child vide protection and care case No. xxx of 2018 to the Nest Children's Home. On 11th April 2019, OCS Runda Police Station issued a final letter in which they confirmed that the biological parents of the child could not be traced nor did anyone come forward to claim the child.
5. Prior to the hearing of the adoption application, Little Angels Network prepared and filed a report dated 12th June 2019 declaring the child free for adoption. The court appointed GWK as guardian ad litem on 29th June 2021. GWK filed a report dated 5th August 2021, which was favorable and recommended the adoption of the child by the Applicant.
6. An officer from the office of the Director of children's Services conducted home visits and established that the Applicant is financially and emotionally capable of providing for the upkeep and education of the minor. M/s Nyaranga filed a report dated 5th June 2021 recommending the adoption for reasons that the child stands to benefit from the opportunities provided by becoming a child of the Applicant. That she will gain a family and grow up in a stable home. The applicant was found to have fulfilled the statutory requirements for adoption.
7. This is a local adoption and from the record the Applicant has fulfilled all the legal requirements relating to the adoption of the child. The consent of the biological parents was dispensed with since the child was abandoned at infancy and the parents could not be traced to give their consent. The child who is now 3 years old was present in the virtual court and appeared joyful and free with the Applicant.
8. I also note that the Applicant was born in 1984 and is 37 years old. She is within the age limit eligible to adopt being an adult having attained the age of twenty-five years and is at least 21 years older than the child but has not attained the age of sixty-five years as provided by **Section 158(1) of the Children's Act No. 8 of 2011**.
9. **Article 53(2) of the Constitution** provides that the best Interest of a child should be the paramount consideration in all decisions concerning a child. This internationally applicable principle is also embedded in the **Section 4 of the Children's Act**.
10. Consequently, my considered view is that it is in the best interest of the child to be adopted by the Applicant. Reasons wherefore, I allow the prayers sought in the originating summons dated 5th May 2021 and order as follows:
 - i. The Applicant KWM be and is hereby allowed to adopt Baby J who shall henceforth be known as JW (Child).

ii. Her date of birth is 19th September 2018 and she is presumed to have been born in Kenya in accordance with **article 14(4) of the Constitution of Kenya** and her place of birth shall be Nairobi.

iii. FNM and AWM are hereby appointed as legal guardians in the event that the Applicant dies, or is incapacitated by ill health.

iv. The Registrar General is directed to enter this order in the Adopted children's Register.

v. The Director of Immigration is hereby authorized to issue the child with a Kenyan passport.

vi. The guardian ad litem is hereby discharged.

SIGNED DATED AND DELIVERED IN VIRTUAL COURT THIS 9TH DAY OF DECEMBER, 2021.

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L.A. ACHODE

HIGH COURT JUDGE

In the presence of Advocate for the Applicant