



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA

AT NAIROBI

MILIMANI LAW COURTS

FAMILY DIVISION

ADOPTION CAUSE NO. E073 OF 2020 (OS)

IN THE MATTER OF THE CHILDREN ACT, 2001

AND

IN THE MATTER OF AN APPLICATION FOR AN ADOPTION OF CHILD OD

IN THE MATTER OF AN APPLICATION FOR ADOPTION BY

HNNK.....APPLICANT

JUDGMENT

1. The applicant HNNK is a single Kenyan woman aged 62 years. She is a self-employed business woman. She is a widow having gotten married to the late FFK on the 3rd February 1999. FFK died on the 24th December 2010 as evidenced in the certificate of death with serial No. xxxx. The applicant has one child namely, CKK, aged 28 years. She filed this originating summons dated 27th October 2020 seeking to adopt Child O.D.

2. Child O.D. is estimated to have been born on the 26th February, 2012. The initial police letter from Nyamira Police station indicates that on the 29th February 2012, the child was rescued from a pit latrine having been thrown there by the suspected mother who was subsequently charged at the Nyamira Law Courts, but later acquitted for lack of evidence. The matter was recorded vide OB No. xx/xx/xxxx. The child was temporarily placed at New Life Home Trust by the Nyamira Children's Office on the same date. He was formally committed to the Home by the Nyamira Senior Principal Magistrate's Court in **Criminal Case No. 156 of 2012** on the 28th February 2012. Police efforts to trace the mother or relatives of the child were not successful. On 28th February 2017 the child was declared free for adoption and Certificate No. xxxxxx issued by Little Angels Network. The applicants have been with the child since the 29th April 2019 when the child was placed with the applicant for foster care.

3. On the 27th May 2021, the court appointed GVC 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 her.

4. The applicant is the mother of a daughter and therefore under **section 158(2)(b)** of the **Children Act** qualifies to adopt this male child.

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 him as if he 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 of the child is hereby dispensed with as he was found abandoned.

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 HNNK is hereby allowed to adopt Child OD;

b) Child OD. shall henceforth be known as OMK;

c) the child's date of birth shall be 26th February, 2012 and shall be presumed Kenyan citizen having been found abandoned in Nyamira County, in Kenya;

d) CKKs 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 ELECTRONICALLY AT NAIROBI THIS 9TH DAY OF DECEMBER, 2021.

A.O. MUCHELULE

JUDGE