



REPUBLIC OF KENYA
IN THE HIGH COURT AT NAIROBI
ADOPTION CAUSE NO. 68 OF 2021
IN THE MATTER OF THE CHILDREN'S ACT NO. 8 OF 2011
IN THE MATTER OF AN APPLICATION FOR THE ADOPTION OF JS (MINOR)

BY

MWW AND ADL (APPLICANTS)

JUDGMENT

1. The application before Court is an originating summons dated 16th June 2021 seeking substantively the adoption of JS, a minor, by the Applicants MWW and ADL. From the record, the Applicants are in a monogamous marriage which was solemnized on 11th November 2011 as evinced in their certificate of marriage. MWW is the biological mother of the minor child.
 2. The records before the court indicate that both Applicants are employed. MWW works as a film producer for [Particulars Withheld] while ADL is a [Particulars Withheld].
 3. The child in question was born on 31st December 2003 and has been in the custody of his mother since birth. The Applicants herein have been providing financial support and other parental responsibility.
 4. Prior to the hearing of the adoption application, KKIP Adoption Society prepared and filed a report dated 27th September 2021 and issued a certificate serial No. 731 declaring the child free for adoption. The court appointed guardian ad litem MKK, filed a report dated 4th August 2021, which was favorable and recommended the adoption of the minor by the Applicants.
 5. An officer from the office of the Director of children's Services conducted home visits and established that the Applicants are financially and emotionally capable of providing for the upkeep and education of the minor. He filed a report dated 26th July 2021 recommending the adoption for reasons that the child stands to benefit from the opportunities provided by becoming a child of the Applicants. That he will gain parents and grow up in a stable home. The Applicants were found to have fulfilled the statutory requirements for adoption.
 6. Article 53(2) of the Constitution, provides the overarching principle which must apply whenever any decision concerning a child is to be considered. It provides that:

“A child's best interests are of paramount importance in every matter concerning the child.”
- This constitutional and internationally applicable principle is embedded and amplified in the Children's Act No.8 of 2001, particularly at section 4(3) of the Act.
7. This is a kinship adoption, under the guidelines for Alternative Family Care of Children in Kenya at page 153, kinship adoption is defined as adoption by adopters who are kin or relatives within the extended family of the child.
 8. This is also a local adoption and after a careful assessment of the reports filed herein, I am satisfied that the Applicants have fulfilled all the legal requirements relating to the adoption of the minor. MWW was born on 9th September 1977 and is therefore 44 years old while ADL was born on 3rd April 1965 and is aged 56 years. They are therefore within the age bracket eligible to adopt, being adults having attained the age of twenty-five years and are at least 21 years older than the child but have not attained the age of sixty-five years as provided by Section 158(1) of the Children's Act No. 8 of 2011. The Applicants also meet the social parameters that are considered relevant to them taking on parental responsibility and custody of the minor in this matter on a permanent basis as would be conferred by the adoption order sought.
 9. It is noteworthy that the minor who is now 17 years old swore an affidavit of consent agreeing to be adopted by the Applicants and referring to them as his parents. The minor's biological father also filed a consent dated 1st February 2021, permitting the Applicants to adopt

the minor. This court has therefore formed the opinion that it would be in the best interest of the minor to be adopted by the Applicant. Not only does the child gain a warm family but also maintains kinship ties with his relatives.

10. Reasons wherefore I allow the prayers sought in the originating summons dated 16th June 2021 and order as follows;

- i. The Applicants MWW and ADL be and are hereby allowed to adopt JS who shall henceforth be known as JSL.
- ii. His date of birth is 13th December 2003 and he is presumed to have been born in Kenya in accordance with article 14(4) of the Constitution of Kenya and his place of birth is Nairobi.
- iii. LO and SK are hereby appointed as legal guardians in the event that the Applicants die or are 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 2ND DAY OF DECEMBER, 2021

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L.A. ACHODE

HIGH COURT JUDGE

In the presence of Advocate for the Applicants