



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI

FAMILY DIVISION

ADOPTION CAUSE NO. 24 OF 2019 (OS)

IN THE MATTER OF THE CHILDREN ACT, 2001

AND

IN THE MATTER OF BABY K.A.

IN THE MATTER OF AN APPLICATION FOR ADOPTION BY

CWM.....APPLICANT

JUDGMENT

1. The applicant is a single Kenyan woman aged 28 years and works with [Particulars Withheld] as the Head of Sales. She was married on 16th August 2008. Due to irretrievable differences between the couple, the marriage was dissolved in Divorce Cause No. 306 of 2015. The said marriage was blessed with one issue, NNK, who was born on 14th August 2010. The applicant filed this originating summons on 12th March 2019 seeking to be allowed to adopt baby KA.

2. Baby KA is presumed to have been born on 8th August 2017. On 14th August 2017 the child's mother left it with EA at Kawangware Stage II promising to come back for it but never returned. A reported the incident in OB No. [...] at Muthangari Police Station. The baby was taken to New Life Home Trust for care and protection. She was formally committed to the Home pursuant to an order made on 22nd November 2017 by the Senior Resident Magistrate's Court at Nairobi in Protection and Care Case No. 562 of 2017. Police efforts to trace the mother and relatives for the child did not bear any fruits. She was declared free for adoption by Little Angels Network Adoption Society on 4th May 2018 under freeing certificate serial number [...]. The child was placed with the applicant on 20th July 2018 for bonding.

3. The court on 12th June 2019 appointed JO as the guardian *ad litem* and ordered that she files a report after carrying out a social inquiry on the applicant. A similar report was sought from the Director of Children Services. Both reports were duly filed, and each recommended that the applicant 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 and the applicant had bonded well.

4. The court finds that it is in the best interest of the child to be adopted by the applicant. The applicant has demonstrated her ability 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. This court dispenses with the consent of the child's parents because the child was 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 applicant CWM is hereby allowed to adopt Baby KA;
- b) Baby KA shall henceforth be known as KAWM;
- c) the child shall be presumed to be Kenyan by birth having been found abandoned at Kawangware in Nairobi County in Kenya;
- d) FTM and PGM are hereby appointed to be the child's legal guardians in the event of 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 SIGNED at NAIROBI this 6TH FEBRUARY 2020

A.O. MUCHELULE

JUDGE

DATED and DELIVERED at NAIROBI this 13TH FEBRUARY 2020

A.N. ONGERI

JUDGE