



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI

FAMILY DIVISION

ADOPTION CAUSE NO. 114 OF 2018 (OS)

IN THE MATTER OF THE CHILDREN ACT, 2001

AND

IN THE MATTER OF BABY PM

IN THE MATTER OF AN APPLICATION FOR ADOPTION BY

JMM.....1ST APPLICANT

MMK.....2ND APPLICANT

JUDGMENT

1. The applicants JMM and MMK are a Kenyan couple aged 47 and 46, respectively. The 1st applicant is an accountant with [Particulars Withheld] Company while the 2nd applicant is a housewife. They married under Kamba customary law in 1999. The marriage was solemnized in 2016. They have no child of their own. On 13th August 2018 they filed this originating summons seeking to adopt the Child PM.

2. Baby PM was born on 7th March 2015 at the Murang'a District Hospital to one LNK as indicated in the discharge summary. The records indicated the father to be KK. The child was abandoned in the Hospital by the mother on the day she was delivered. The matter was reported to Murang'a Police Station under OB No. [...]. The child was retained at the Hospital until 30th March 2015 when he was placed at Thomas Barnardo Home for care and protection. The child was committed to the Home pursuant to an order made by the Nairobi Children's Court in Protection and Care Case No. 3 of 2015. Police efforts to trace the mother did not bear fruits. The child was declared free for adoption by the Kenya Children's Home Adoption Society on 14th December 2016 vide certificate number 1313 and placed with the applicants on 19th January 2017 for bonding.

3. On 14th February 2019 the court appointed RMM as the guardian *ad litem* to the child and ordered him and the Director of Children Services to within 45 days prepare and file the requisite reports after carrying out a social inquiry on the applicants to determine their suitability to adopt the child. The two reports were filed each recommending 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 and the applicants had bonded well.

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 ability 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. This court dispenses with the consent of the child's biological parents or relatives as they have never been traced.

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 JMM and MMK are hereby allowed to adopt Baby PM.;

b) Child PM shall henceforth be known as WM;

c) the child shall be presumed to be Kenyan by birth having been found at Murang'a District Hospital in Murang'a County in Kenya;

d) NWM and PNW are hereby appointed to be the child's legal guardians in the event of 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 SIGNED at NAIROBI this 6TH FEBRUARY 2020

A.O. MUCHELULE

JUDGE

DATED and DELIVERED at NAIROBI this 13TH FEBRUARY 2020

A.N. ONGERI

JUDGE