



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI

ADOPTION CAUSE NO. 56 OF 2019

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

AND

IN THE MATTER OF JCN AKA P AKA BJNC, MINOR

BY

FNW AND JWN (APPLICANTS)

JUDGMENT

1. The Applicants FNW and JWN are in a monogamous marriage which was solemnized at [particulars withheld] Church, Nairobi on 30th November, 1991. A Certificate of Marriage of serial number [...] is on record. They have no child of their own. They wish to adopt the female child known as JCN a.k.a P a.k.a BJNC, Minor through the Originating Summons dated 11th April, 2019.
2. From the pleadings the court gathers that the male Applicant is a Pastor at [particulars withheld] in Nairobi while the female Applicant is a Records Manager employed by [particulars withheld]. They reside in a two (2) bedroom apartment at [particulars withheld], Nairobi and both profess the Christian faith.
3. The child who is the subject of this adoption was found abandoned at Kibera slums on 6th May, 2013. The child was rescued by a Good Samaritan who reported the matter to Kilimani Police Station where it was recorded vide OB. No. [...] Thereafter, the child was admitted to Nairobi Children's Home for care and protection.
4. On 8th July, 2013 the child was committed to the care of Happy Life Children's Home, Nairobi by the Children's Court at Nairobi vide P&C Case No. 146/2013. The OCS Kilimani Police Station issued a final letter dated 7th January, 2015 in which he confirmed that no one had come forward to claim the child and attempts to trace her kin had proved futile. On 24th April, 2018 the Applicants took the child into foster care with a view of adopting upon signing a Foster Care Pending Adoption Agreement. Since then the child has been in the continuous care and custody of the Applicants.
5. Prior to the hearing of the adoption application, Buckner Kenya Adoption Services prepared and filed a report dated 11th June, 2019. They had also issued a Certificate of Serial No. [...] dated 8th July, 2016 declaring the child free for adoption. The guardian ad litem MMM filed a report on 25th November, 2019 which was favourable and recommended the adoption of the child by the Applicants.
6. An officer from the office of the Director of Children Services conducted home visits and established that the Applicants are financially, physically and emotionally capable of providing for the up keep and education of the child. She prepared and filed a report dated 23rd September, 2019 recommending the adoption for reasons that the child stands to gain from the opportunities provided by becoming the daughter of the Applicants as opposed to living all her life in an institution as an abandoned child. Further that the Applicants have met all the requirements for a local adoption as provided in the statute.
7. It is important to note that the orders sought by the Applicants herein relate to a child. In any matter concerning a child, the best interests of the child are what is of paramount importance as provided for under **Article 53(2)** of the **Constitution** and amplified by **section 4(3)** of the **Children Act No. 8 of 2001**.
8. This is a local adoption and the Applicants in my opinion have fulfilled the requirements for a local adoption under the **Children Act, 2001**. They have proved during the placement period prior to adoption that they are capable of taking on the challenge of raising the child in this matter. I am convinced that the Applicants meet the social parameters that are considered relevant to their taking on parental responsibility and custody of the child in this matter on a permanent basis as would be conferred by the adoption order sought.

9. The consent of the biological parents was dispensed with since the child was abandoned and the parents could not be traced to give the consent.

10. RMW, a brother to the male applicant, and his wife JNG, by a joint affidavit sworn on 10th March, 2020 consented to be appointed as legal guardians in the event that the Applicants are incapacitated and cannot care for the child.

11. After a careful assessment of the reports filed herein and from the observation of the interaction of the Applicants and the child during the hearing, this court has formed the opinion that it would be in the best interest of the child to be adopted by the Applicants who appear to be a loving and warm family.

12. Reasons wherefore, I allow the prayers sought in the Originating Summons dated 11th April, 2019 and order as follows:

i. The Applicants, FNW and JWN are hereby allowed to adopt **Baby JCN a.k.a P a.k.a BJNC, Minor** who shall henceforth be known as **GKN**.

ii. Her date of birth shall be presumed to be 10th September, 2008. She is presumed to have been born in Kenya in accordance with **Article 14(4)** of the **Constitution**, and the place of birth shall be Nairobi.

iii. RMW and JNG are hereby appointed as the legal guardians of the child 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 Adoption Register.

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

vi. The guardian ad litem be and is hereby discharged.

It is so ordered.

DATED SIGNED AND DELIVERED VIA EMAIL AT NAIROBI THIS 8TH DAY OF APRIL, 2020.

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L. A. ACHODE

HIGH COURT JUDGE