



**REPUBLIC OF KENYA**

**IN THE HIGH COURT OF KENYA AT NAIROBI**

**ADOPTION CAUSE NO. 92 OF 2019 (O.S)**

**IN THE MATTER OF THE CHILDREN ACT NO. 8 OF 2001**

**AND**

**IN THE MATTER OF AN APPLICATION FOR THE ADOPTION OF BABY MMK ALIAS BABY M**

**BY**

**DR. SDKK AND SMK (APPLICANTS)**

**JUDGMENT**

1. The Applicants Dr. SDKK and SMK have been married for a period of fourteen (14) years having solemnized their marriage at the Nairobi Pentecostal Church in Nairobi on 27<sup>th</sup> November, 2004. Their union is blessed with two (2) biological daughters namely NK and MW. They wish to adopt the male child known as Baby MMK alias Baby M, through the Originating Summons dated 3<sup>rd</sup> July, 2019.
2. From the pleadings the court gathers that the male applicant is a doctor by profession whereas the female applicant is a farmer. They reside in a two bedroom house in [Particulars Withheld] area, Nairobi and both profess the Christian faith.
3. Records indicate that the minor in this matter was abandoned by his mother immediately after his birth at Tigoni District Hospital on 13<sup>th</sup> November, 2011. The matter was reported to Tigoni Police Station where it was booked vide OB. No. 16/15/11/2011. The child remained at the hospital for a period of six (6) months without being claimed. On 2<sup>nd</sup> May, 2012 he was committed to the care of Angel Centre for Abandoned Children's Home – Dagoretti by the Children's Court at Limuru vide P&C Case No. 44/2012.
4. The OCS Tigoni Police Station issued a letter dated 11<sup>th</sup> February, 2014 in which he confirmed that no one had come forward to claim the child and attempts to trace his kin had borne no fruits. On 24<sup>th</sup> September, 2014 the Applicants took the child into foster care with a view of adopting upon signing a Care 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, KKPI Adoption Society prepared and filed a report dated 19<sup>th</sup> September, 2019. They had also issued a Certificate of Serial No. 440 dated 26<sup>th</sup> November, 2014 declaring the child free for adoption. The guardian ad litem MMM filed a report which was favorable 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 and emotionally capable of providing for the up keep and education of the child. He filed a report dated 20<sup>th</sup> January, 2020 recommending the adoption for reasons that the child stands to gain by becoming the son of the Applicants as opposed to living all his life in an institution as an abandoned child. He stated that the Applicants have met all the requirements for a local adoption as provided in the statute and that the minor is thriving well in the family.
7. The orders sought by the Applicants herein relate to a child. In law, 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 at infancy and the parents could not be traced to give the consent. The Applicants' family members are aware of the proposed adoption and support it.

10. SKM and LNN have by a joint letter of consent sworn on 3<sup>rd</sup> July, 2019 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 virtual 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. The Applicants have two (2) biological children of their own and this will give the minor the added advantage of siblings.

12. Reasons wherefore, I allow the prayers sought in the Originating Summons dated 3<sup>rd</sup> July, 2019 and order as follows:

- i. The Applicants, Dr. SDKK and SMK be and are hereby allowed to adopt **Baby MMK alias Baby M** who shall henceforth be known as **MMK**.
- ii. His date of birth shall be 13<sup>th</sup> November, 2011. He was born in Kenya and the place of birth shall be Limuru.
- iii. SKM and LNN 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 is hereby discharged.

It is so ordered.

**DATED SIGNED AND DELIVERED IN VIRTUAL COURT THIS 16<sup>TH</sup> DAY OF JULY, 2020.**

.....

**L. A. ACHODE**

**HIGH COURT JUDGE**