



REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA
AT NAIROBI
ADOPTION CAUSE NO. 104 OF 2019
IN THE MATTER OF THE CHILDREN ACT NO. 8 OF 2011
AND
IN THE MATTER OF THE ADOPTION OF BABY T (CHILD)
BY
EAO (APPLICANT)
JUDGMENT

1. The Applicant EAO is a Kenyan citizen. She is single and has never been married. She has one biological child, MH aged 17 years from a previous relationship. She wishes to adopt the child known as Baby T, a minor of the female sex, through the Originating Summons dated 19th July, 2019.
2. From the pleadings, the court gathers that the Applicant is a business woman and currently earns a commission from her work as a self-employed insurance broker and is financially stable. She resides in a two bedroom house in a gated community in [Particulars Withheld] area, Kiambu and professes the Christian faith.
3. The child who is the subject of this adoption was found abandoned near a dumpsite in Madoya area in Mathare North, Nairobi on 10th October, 2017. The child was rescued by a Good Samaritan namely Lukia Wangwa who then took the child to “Mzee wa Mtaa” who instructed him to report the matter to Huruma Police Station which he did. It was recorded vide OB. No. 08/10/10/2017. The child was referred to The Nest Children’s Home, Runda where she was admitted for care and protection.
4. On 13th June, 2018 the child was committed to the care and custody of The Nest Children’s Home by the Children’s Court at Nairobi vide P&C Case No. 549 of 2017. The O.C.S Huruma Police Station issued a final letter dated 20th April, 2018 in which he confirmed that no one had come forward to claim the child and efforts to trace her kin had proved futile.
5. On 29th May, 2018 the Applicant took the child into foster care with a view of adopting, upon signing an Infant/Child Release Agreement. Since then the child has been in the continuous care and custody of the Applicant.
6. Prior to the hearing of the adoption application, Little Angels Network prepared and filed a report dated 4th May, 2018. They had also issued a Certificate of Serial No. 001983 dated 4th May, 2018 declaring the child free for adoption. The guardian ad litem NAO filed a report dated 10th December, 2019 which was favourable and recommended the adoption of the child by the Applicant for reasons that she had shown parental commitment and willingness to give the child a stable and loving home.
7. An officer from the office of the Director of Children Services conducted home visits and established that the Applicant is financially and emotionally capable of providing for the upkeep and education of the child. She filed a report dated 10th January, 2020 recommending the adoption for reasons that the child stands to gain from the opportunities provided by becoming the daughter of the Applicant as opposed to living all her life in an institution as an abandoned child.
8. I note that this is a local adoption and the Applicant in my opinion, has fulfilled all the requirements for a local adoption as provided under the **Children Act No. 8 of 2001**. She has proved during the placement period that she is capable of taking on the challenge of raising the child in this matter. I am also convinced that she has met the social parameters that are considered relevant to her 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 child was not present during the virtual hearing but was later presented on 16th July, 2020. From her interaction with the court and the Applicant, the court noted that she has bonded well with the Applicant. She was calm and was observed to be in good health and in good spirits. Additionally, the evidence on record demonstrates that the child has flourished under the care of the Applicant and has bonded well with her son.

10. 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 Applicant's family members are aware of the proposed adoption and support it. Her son MH has also consented to the adoption and supports it.

11. JNO, a sister to the Applicant, and her husband VLOO have by a joint Guardian's Letter of Consent dated 3rd May, 2017 consented to be appointed as legal guardians in the event that the Applicant is incapacitated and cannot care for the child.

12. It is important to note that the orders sought by the Applicant herein relate to a child. In any matter concerning a child the best interests of a child are what is of paramount importance as provided for under **Article 53(2)** of the **Constitution** and **section 4(3)** of the **Children Act No. 8 of 2001**.

13. After a careful assessment of the reports filed herein and from the observation of the interaction of the Applicant 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 Applicant. Not only does she gain a loving mother, she also gains a sibling with whom she has already bonded.

14. Reasons wherefore, I allow the prayers sought in the Originating Summons dated 19th July, 2019 and order as follows:

- i. The Applicant, EAO is hereby allowed to adopt **Baby T** who shall henceforth be known as **CAF**.
- ii. Her date of birth shall be presumed to be 9th October, 2017. 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. JNO and VLOO are hereby appointed as the legal guardians of the child in the event that the Applicant dies, or is 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 IN VIRTUAL COURT THIS 16TH DAY OF JULY, 2020.

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L. A. ACHODE

HIGH COURT JUDGE