



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI

MILIMANI LAW COURTS

ADOPTION CAUSE NO 57 OF 2019

IN THE MATTER OF THE CHILDRENS ACT (Act No. 8 of 2001)

AND

IN THE MATTER OF B. A. MINOR

AND

IN THE MATTER OF AN APPLICATION FOR ADOPTION

BY

APPLICANT D. W. M.

JUDGMENT

D. W. M., the Applicant herein, seeks to adopt B. A, hereinafter called “the child”. In her Statement in support of her application to adopt the child, the Applicant states that she is a single parent, her husband J. K. having died in 2017; that both the Applicant and the deceased husband had adopted a son, G.M.K, on 22nd June 2002; that the Applicant was born on 11th September 1966; that she professes Christian faith and works as an Assistant Manager-Underwriting at Kenindia Assurance Company where she earns Kshs 156,547 per month and that she has the financial means and owns other properties to enable her adopt and take care of the Child. She states that she does not suffer from any ailment and that she is emotionally and physically fit; that she does not have a criminal record and that she has received good referrals from her friends F. N. M and B. S. N and that her family is supportive of her intention to adopt the child with her sister C. M. M. accepting to be appointed legal guardian of the Child.

The Applicant further states that she made an application to Buckner Kenya Adoption Services through her letter dated 13th April 2018 to adopt the Child. She was taken through the Explanatory Memorandum of Adopters which she signed on 26th April 2018 and a social enquiry carried out by the Adoption Society to assess her suitability to adopt a child culminating into Pre-Placement Report and approval to adopt a child was given by the Adoption Society Committee on 27th April 2018. She states that she was placed with the child on 2nd September 2018.

The Child, subject of these proceedings, is a female of African race. She was found abandoned at Stage Mpya, Pipeline, Embakasi in Nairobi by FW and taken to Pipeline Nursing Home where it was found that the child had multiple bruises on her face. The child was presumed to have been born on 13th July 2012. FW reported the abandonment at Embakasi Police Station where the report was booked on Occurrence Book No. 23/14/7/2012. The police asked FW to remain with the child pending enquiries and placement. The police took long to contact FW and on 8th August 2016 she sought assistance from Embakasi Sub-County Children’s Office which referred the child to Imani Children’s Home for care and custody. The child was committed at Imani Children’s Home on 13th September 2017. The child was declared free for adoption by the Case Committee of the Adoption Society on 16th February 2018.

The Applicant has further sworn an affidavit on 27th March 2019 confirming her Statement in support of the Originating Summons. She has also attached various documents to show the process she has gone through and to confirm her suitability to adopt the child.

On the 13th June 2019 this court appointed MMM as Guardian Ad Litem for the child. The court further ordered that the Guardian Ad Litem and the Director Children’s Services file reports on the suitability of the Applicant to adopt the child within 45 days.

On 5th November 2020 Ms Kimenyi for the Applicant made oral submissions in support of the Originating Summons in proceedings held virtually. She told the court that all the necessary reports have been filed: one by the Adoption Society dated 11th June 2019; one by the

Children's Department dated 19th August 2019 and one by the Guardian Ad Litem dated 25th October 2019.

I have considered this application. I have noted that the child was declared free for adoption by Buckner Kenya Adoption Services. There is a Report from Buckner Kenya Adoption Services marked "DM 22" declaring the child free for adoption and a Certificate to that effect dated 16th February 2018 marked "DM 23". This satisfies the requirements of Section 156 (1) of the Children Act (Act 8 of 2001). There is a letter from Embakasi Police Station dated 20th February 2017 (marked "DM 21") addressed to Imani Children's Home to the effect that efforts to trace the parents of the child had failed and asking the Home to continue supporting the child. By a report of the Buckner Kenya Adoption Services Committee dated 27th April 2018 ("DM 14") the Committee recommended that the Applicant suitable was suitable to adopt the child.

The child has no known parents and therefore their consent could not be obtained. This is confirmed by the letter from Embakasi Police Station dated 20th February 2017. G. M. K, the older adopted child of the Applicant has given his consent vide his letter dated 3rd March 2018. The spouse of the Applicant is deceased and cannot give his consent. I have read the reports from the Guardian Ad Litem and the Children's Department. Both reports are favourable and recommend that the Applicant is suitable to adopt the child. The intended Legal Guardian C. M. M has given her consent to be appointed as Legal Guardian of the child.

After my careful reading of all the documents in support of this application and the attached documents as well as the law, I am satisfied that the Applicant is suited financially and emotionally to adopt the child. I am satisfied that she has the means to take care of the child. I am satisfied that the requirements of the law under Sections 156, 157, 158 and 160 of the Children Act have been satisfied. Therefore, under the powers donated to this court by Section 163 of the Children Act I hereby allow the Originating Summons dated 27th March 2019 and issue an adoption order in the following terms:

- 1. That the Applicant, D. W. M, is authorized to adopt the child currently identified and known as BA.**
- 2. That the child shall be renamed B. N. K.**
- 3. That the child's date of birth shall be 13th July 2012.**
- 4. That the child's place of birth shall be Nairobi County.**
- 5. That the consent of the biological parents/guardians is hereby dispensed with.**
- 6. That the child shall be presumed to be a Kenyan Citizen by birth.**
- 7. That C M. M. is hereby appointed as the Legal Guardian of the child.**
- 8. That MMM, the child's Guardian Ad Litem, is hereby discharged.**
- 9. That the Registrar General is hereby directed to make the appropriate entries in the Adopted Children Register and issue a certificate to that effect.**

Orders shall issue accordingly.

DATED, SIGNED AND DELIVERED THIS 10TH DAY OF DECEMBER 2020.

S. N. MUTUKU

JUDGE