



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI

FAMILY DIVISION

ADOPTION CAUSE NO. 44 OF 2020 (OS)

IN THE MATTER OF THE CHILDREN ACT, 2001

AND

IN THE MATTER OF BABY BG

IN THE MATTER OF AN APPLICATION FOR ADOPTION BY

ANN.....1ST APPLICANT

YNN.....2ND APPLICANT

JUDGMENT

1. The applicants AGW and YNN are a Kenyan couple aged 46 and 38, respectively. The 1st applicant is an aviation fuel technician while the 2nd applicant is a customer service agent. The parties solemnized their marriage on 15th August 2009. They have no child. They filed the originating summons dated 27th February 2020 seeking to jointly adopt Baby BG.

2. Baby BG is presumed to have been born on 9th July 2018. She was found abandoned on 23rd July 2018 at Kawangware Soko Mjinga in Nairobi. The incident was reported at Muthangari Police Station under OB number [xxxx]. The child was temporarily placed at House of Charity Children's Home on the same day. The child was committed to the same Home on 26th September 2018 under Care and Protection Case Number 525 of 2018 by the Senior Resident Magistrate Children Court in Nairobi. According to the police the mother and relatives of the child were not traced. The child was declared free for adoption by Buckner Kenya Adoption Society on 3rd May 2019 under certificate number 0368 and placed with the applicants on 1st July 2019 for bonding. She has been with the applicants since.

3. The court on 24th September 2020 appointed JN as the guardian *ad litem* and ordered him to investigate the suitability of the applicants to adopt the child and to file a report within 45 days. A similar report was sought from the Director of Children Services. Both reports were duly filed, and each recommended that the applicants 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 her as if she 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 properties. The applicants shall not be able to give up the child owing to any subsequent unforeseen behaviour or other changes in the child.

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 ANN and YNN are hereby allowed to adopt Child BG;
- b) child BG shall henceforth be known as HNN;
- c) the child shall be presumed to be Kenyan by birth having been born at Kawangware in Nairobi in Kenya;

d) NNM is hereby appointed to be the child's legal guardian in the event of death or incapacity of the applicants before she 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 DELIVERED at NAIROBI this 3RD day of DECEMBER 2020

A.O. MUCHELULE

JUDGE