

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI

FAMILY DIVISION

ADOPTION CAUSE NO. E053 OF 2020 (OS)

IN THE MATTER OF THE CHILDREN ACT, 2001

AND

IN THE MATTER OF ENM (CHILD)

IN THE MATTER OF AN APPLICATION FOR ADOPTION BY

DAK.....APPLICANT

JUDGMENT

1. The applicant is a Kenyan man aged 37 and a Professor at [Particulars Withheld] University in the U.S.A. He was married to one DKO with whom they had three children. The two separated. The applicant formally married RMA. The two have no child. The applicant lives with his wife and all children in Minnesota in the U.S.A. The applicant filed the originating summons dated 14th September 2020 seeking to be allowed to adopt the child ENM.

2. The child ENM in this matter was according to birth certificate S/No. A[.....] born on 25th May 2006 to CMK and NKO. The two died on 7th April 2020 and 26th September 2011, respectively. The late father of the child was the applicant's brother. The child was declared free for adoption by KKPI Adoption Society on 15th November 2019.

3. On 1st October 2020 the court appointed JN as the guardian *ad litem* and ordered him and the Director of Children Services to prepare and file the requisite reports within 45 days after carrying out a social inquiry on the applicant to determine his suitability to adopt the child. The two reports were filed. Both recommended the applicant to be allowed to adopt the child. The reports found that the applicant was socially, emotionally and financially stable and suitable to adopt the child. It was also found that the child and the applicant had bonded well.

4. This is a kinship adoption. The child is the niece to the applicant. The applicant's mother and wife have consented to the adoption. The court finds that it is in the best interest of the child to be adopted by the applicant. The applicant has demonstrated his capability to provide a conducive home and family environment in which the child will grow and develop. He will assume all parental rights and obligations of the biological parents of the child once adopted, and shall treat her as if she was borne to him. He has 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 his property. The applicant shall not be able to give up the child owing to any subsequent unforeseen behaviour or other changes in the child. This court dispenses with the consent of the child's biological parents as they are deceased.

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 applicant DAK is hereby allowed to adopt Child ENM;
- b) Child ENM shall henceforth be known as ENK;
- c) EK is hereby appointed as the child's legal guardian in the event of the death or incapacity of the applicant before she is of full age and fully self-reliant;
- d) the Registrar-General is directed to enter this adoption in the Adopted Children Register; and
- e) the guardian *ad litem* is hereby discharged.

DATED and SIGNED at NAIROBI this 3RD day of DECEMBER 2020

A.O. MUCHELULE

JUDGE