



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI

MILIMANI LAW COURTS

FAMILY DIVISION

ADOPTION CAUSE NO. 41 OF 2017

IN THE MATTER OF ADOPTION OF CHILD R.W

AND

IN THE MATTER OF AN APPLICATION FOR ADOPTION BY

DMM.....APPLICANT

JUDGMENT

1. The applicant DMM is a single female who is a secretary at [particulars withheld] Church in Nairobi. Her husband JMN died on 23rd February 2018 before the conclusion of the matter. She filed an amended originating summons on 25th May 2018 seeking to be allowed to adopt the male child.

2. Child R.W was presumed to have been born on 29th June 2013 and abandoned within Kariobangi North Estate. He was committed to Nest Children's home on 29th July 2015 by the Milimani Children's Court vide Protection and Care Cause No.167 of 2015. The child was declared free for adoption under **section 156(1)** of the **Children's Act** by the Little Angels Network on 17th June 2016 and was placed under the care of the applicant and his late husband for mandatory bonding prior to adoption and has been under the continuous care of the applicant since.

3. The court on 31st May 2017 appointed Margaret Wakiuru Mambo as guardian *ad litem* and ordered that she files a report after carrying out a social inquiry on the applicant. A similar report was sought from the Director of Children Services. Both reports were duly filed, and each recommended that the applicant be allowed to adopt the child. The report by the Children Officer, Joshua Mweu stated that pursuant to **section 158 (2) (b)** of the **Children's Act** the special circumstance applicable to this case was that at the time of placement with the children the applicant was married to her late husband hence qualified to be placed with male children; that the circumstances leading to the change of application from joint to single were beyond the applicant's control; that the child had been in the continuous care and control of the applicant since 29th October 2016, and therefore it was not in the best interest to remove him from her care.

4. The court finds that it is in the best interests of the child to be adopted by the applicant. The applicant has demonstrated her ability to provide a conducive home and family environment in which the child will grow and develop. She will assume all parental rights and obligations of the biological parents of the child once adopted, and shall treat him as if he was borne to her. She 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 her 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 the child was found abandoned.

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 DMM is hereby allowed to adopt Child R.W;
- b) child R.W shall henceforth be known as JMM;
- c) ZMN and ENM are hereby appointed to be the child's legal guardians in the event of death or incapacity of the applicant before he 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 5TH day of FEBRUARY 2019.

A.O. MUCHELULE

JUDGE

DATED and DELIVERED at NAIROBI this 14TH day of FEBRUARY 2019.

ALI-ARONI

JUDGE