



**REPUBLIC OF KENYA**

**IN THE HIGH COURT OF KENYA AT MURANG'A**

**ADOPTION CAUSE NO. 1A OF 2016**

**IN THE MATTER OF THE CHILDREN ACT**

**AND**

**IN THE MATTER OF AN APPLICATION FOR A LOCAL ADOPTION**

**BY KSG AND MWG**

**AND**

**IN THE MATTER OF THE ADOPTION OF BABY MWG (MINOR)**

**JUDGMENT**

1. This is an application for a *local adoption*.
2. The applicants, *KSG* and *MWG* [*particulars withheld*] are an elderly Kenyan couple aged 66 and 64 respectively. They have been married since 1971. Their marriage certificate is on the record. I will refer to them as the applicants or proposed adoptive parents.
3. The *ex parte* originating summons is dated 24<sup>th</sup> May 2016. It is brought under the **Children Act** and the Regulations thereunder (hereafter *the Act and Regulations*). There is a *joint deposition* and *verifying affidavit* sworn by the applicants together with a bundle of materials filed on even date.
4. A comprehensive and *original* report was filed by Rhoda Mwikya, the County Coordinator of Children Services, Murang'a. It is dated 3<sup>rd</sup> April 2018. It concludes that the applicants are *qualified* to adopt the minor. *KKPI Adoption Society* was unable to declare the child free for adoption for want of a *committal order* by the Children Court. The letter is dated 27<sup>th</sup> September 2018.
5. However, there are *three* important letters from the Kenya Police Service dated 2<sup>nd</sup> August 2013, 16<sup>th</sup> July 2018 and 4<sup>th</sup> January 2019. They *all* confirm that the minor was *abandoned* in Murang'a; that a formal report was made to the police; and, that subsequent investigations to trace the biological parents were *not* fruitful. I am satisfied from the materials on record that the biological parents *cannot* be traced.
6. The applicants had at first presented themselves as foster parents. The truth is that their marriage was not blessed with children; and, their true intentions were to adopt the minor. They have lived with the minor for *twelve years* or thereabouts; and, provided for her upkeep and tuition.
7. The *guardian ad litem* and the two applicants testified on oath on 12<sup>th</sup> February 2019. I also interviewed the minor.
8. The minor is a girl now aged *twelve years* or thereabouts. Her date of birth is estimated to be on or about 6<sup>th</sup> January 2007. She is a class eight candidate at [*particulars withheld*] Primary School. A letter from the school is on the record.
9. I keenly observed the general demeanour of the child. She is a healthy and happy girl who has jelled well with the proposed adoptive parents. This was also confirmed by the answers I received *on oath* from the *guardian ad litem*.
10. The applicants are small scale coffee farmers and rear one cow. By our rural standards, they are *financially stable* and have been meeting the education and living expenses of the minor. They intend to continue to reside in Murang'a.
11. I confirmed that the proposed adoptive parents understand the *finality* and legal implications of an *adoption order*; that they will treat the minor like their biological child; and, that the adopted child will *inherit* her property in the same manner as any biological child.

12. Section 154 of the *Children Act* vests the High Court with power to make an *adoption order*. I find that it is in the *best interests* of the minor that she be adopted by the applicants. She has *not* known other parents since birth. It would be ridiculous to send the minor to an institution this late in the day. I am also satisfied that the applicants have the *emotional* and *financial* capacity to raise the adopted child.

13. Upon the grant of the adoption order, the applicants shall assume all parental rights and duties of the biological parents. They shall treat the adopted child as their *own*. The adoption order is *final* and shall be binding during the lifetime of the child; and, the adopted child shall have the right to *inherit* the property of the applicants. They cannot give up the child owing to unforeseen behavior or other changes in her character.

14. In the end, I am satisfied that the key legal requirements for a *local adoption* have been met. I therefore grant the following orders-

- a) That the applicants be and are hereby allowed to adopt *Baby MWG [particulars withheld]*;
- b) That the name of the child shall be *MWG [particulars withheld]*;
- c) That the effective *date of birth* shall be recorded as 6<sup>th</sup> January 2007;
- d) That the child is presumed to be a *Kenyan Citizen*;
- e) That the Registrar General is directed to enter this adoption order in the Adoption Register;
- f) That I appoint *MK [particulars withheld]* to be the minor's *legal guardian* in the event that the applicants are incapacitated; or, unable to exercise parental obligations; and,
- g) That the proceedings and judgment in this cause shall be *sealed*; and, shall *not* be accessible to any person without prior orders of the court.

It is so ordered.

**DATED, SIGNED and DELIVERED** at MURANG'A this 13<sup>th</sup> day of February 2019

**KANYI KIMONDO**

**JUDGE**

**Judgment read in chambers in the presence of-**

The applicants (in person).

The *guardian ad litem*.

Ms. Dorcas and Ms. Elizabeth, Court Clerks.