



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI

MILIMANI LAW COURTS

FAMILY DIVISION

ADOPTION CAUSE NO. 122 OF 2018(OS)

IN THE MATTER OF THE CHILDREN ACT 2001

AND

IN THE MATTER OF NM ALIAS NMW (CHILD)

AND

IN THE MATTER OF AN APPLICATION FOR ADOPTION BY

GMK.....1ST APPLICANT

FWM.....2ND APPLICANT

JUDGMENT

1. The applicants are a Kenyan couple aged 58 and 56, respectively. The applicants are business people. They got married under Kikuyu customary law in the year 1978 and were blessed with three children; WKM, HWM (Deceased) and RNM. They filed this originating summons on 13th September 2018 seeking to be allowed to adopt the female child who was born on 12th December 2013.

2. Child NM alias NMW is the applicants' granddaughter born to their late daughter HWM who died on 13th September 2017. She left behind the child and 2 others. The biological father of the child is unknown. The child was declared free for adoption under **section 156(1)** of the **Children's Act** by Kenyans Children's Home Adoption Society on 20th June 2018 under Certificate Number **1404**. The applicants obtained consent from the child's uncle, WKM, and aunt, RNM. The child has been under the continuous care of the applicants since the demise of her mother on 13th September 2017.

3. The court on 2nd November 2018 appointed JKK as guardian *ad litem* and ordered that he files a report after carrying out a social inquiry on the applicants to determine their suitability to adopt the child. 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 borne 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 property. The applicants 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 father as he is unknown.

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 GMK and FWM are hereby allowed to adopt Child NM alias NMW;

b) child NM alias NMW shall henceforth be known as NM;

c) WKM and BNM are hereby appointed to be the child's legal guardians in the event of death or incapacity of the applicants 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 7TH day of FEBRUARY 2019.

ALI-ARONI

JUDGE