



REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA AT KITUI
ADOPTION CAUSE NO. 4 OF 2017
IN THE MATTER OF CHILD EM
ON APPLICATION FOR AN ADOPTION ORDER

AND
PWF.....APPLICANT

J U D G M E N T

1. **PWF**, the Applicant, approached this Court by way of Originating Summons seeking to be authorized to adopt **EM** (subject child) to be known as **EKF** upon issuance of the orders sought.
2. The Applicant herein, a relative of the child, is a Kenyan Citizen of African race aged **31 years**, a Christian of **Evangelical Church** and married to **UFR**, they have three (3) children, **IMF**, **LMF** and **LRF**. He has given spousal consent per the requirement of **Section 158(4)(d)** of the **Children Act** to the child being adopted by the Applicant.
3. **FNS**, a sister of the Applicant, **SMK**, the grandfather of the subject child, **LLS** a sister of the Applicant, all family members of the child filed affidavits consenting to the child being adopted. A Certificate of Good Conduct was issued to the Applicant dated **11th March, 2017** therefore she is fit to be an adoptive parent.
4. The subject child was born to **PWS** on the **26th September, 2005** and a Birth Certificate **Serial No. [xxxx]** issued. Per the affidavit deposed by **SMK**, the maternal grandfather of the child, the child's mother was unmarried and the father was unknown. The Birth Certificate issued to the child does not bear the name of the father. The mother died on **22nd July, 2010** and a Certificate of Death **No. [xxxx]** was issued therefore her consent is dispensed with.
5. The Child Welfare Society of Kenya, an Adoption Society filed a Declaration Report in respect of the subject case. It is their view that the Applicant intends to accord the child a permanent parental care and protection. That she is committed to providing a good environment that will nurture the child to achieve potentials in life and this being a kinship adoption the right of the child to preserve her identity including nationality, name and family relations would be achieved.
6. Following a Court order, to The Director, Children Services to prepare a report, **Mrs. Jacinta Mwinzi**, the Children Officer, Kitui County conducted a social enquiry and was of the opinion that the Applicant has the ability to take on parental responsibility and custody of the child as would be permanently be conferred by an adoption order. That during the fostering period, the Applicant proved capable to adequately provide for the child.
7. I have read the reports available. I have in particular considered the fact that since the demise of the mother of the subject child she has been the Applicant's responsibility. The guardian ad litem filed a report confirming the bond that exists between the Applicant and the subject child. The legal requirements for Kinship Adoption having been adhered to, I am satisfied that the Applicant herein will provide the child with love, warmth and a family set up. It will therefore be in the interest of the subject child who is aged **12 years** and understands the meaning of the order to be issued to be adopted.
8. In the premises I grant orders thus:
 - (i) The Applicant be and is hereby authorized to adopt **EM** who shall henceforth be known as **EKF**.
 - (ii) **FN** be and is hereby appointed as the Legal Guardian of the child.
 - (iii) The Registrar General shall make an entry in the Adopted Children's Register of the Adoption Order.

(iv) The Registrar of Births shall issue the child with a Certificate in the Adopted names.

(v) The Guardian ad litem be and is hereby discharged.

9. It is so ordered.

Dated, Signed and Delivered at Kitui this 6th day of February, 2019.

L. N. MUTENDE

JUDGE