



REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA AT NAIROBI
ADOPTION CAUSE NO.176 OF 2017
IN THE MATTER OF THE CHILDREN ACT NO. 8 OF 2001
AND
IN THE MATTER OF APPLICATION FOR THE ADOPTION OF
B a.k.a LC a.k.a IWW
AND
ORIGINATING SUMMONS OF AN APPLICATION FOR AN ADOPTION ORDER
VNW..... 1ST APPLICANT
AND
FWW.....2ND APPLICANT

JUDGMENT

1. The Applicants herein VNW and FWW have approached this Court by way of Originating Summons dated 23.11.2017 seeking the following orders:

- (i) THAT the Applicants be authorized to adopt B a.k.a LC a.k.a IWW (the child).***
- (ii) THAT upon adoption, the child be known as IWW***
- (iii) THAT the Child to be presumed to be a Kenyan Citizen.***
- (iv) THAT the Registrar General do enter the adoption order in the Adopted Children Register.***

2. The Applicants are a married couple who got married on 7th December 2002. They are aged 44 and 41 respectively at the time of this application.

3. The Applicants have an adopted son aged 4½ years old whom they adopted through Kenya Children's home Adoption Society.

4. The Applicants have an income of Kshs. 3,000,000/- per annum. The 1st Applicant, the husband is a consultant at [particulars withheld] while the 2nd applicant is a contract manager at [particulars withheld].

5. The child was presumably born on 14.1.2014. She was found abandoned on 16/1/2014 outside a gate within Farmatt Supermarket.
6. The Child was then referred to Our Lady of Fatima Hospital where she was examined and treated.
7. The Child was later committed to Mahali Pa Maisha on 14.5.2014 vide Care and Protection Case No. 31 of 2014.
8. The final police letter dated 30.7.2014 stated that efforts to trace the mother of the child were fruitless.
9. The child was declared free for adoption by Kenya Children's Home Adoption Society on 13th August 2014 vide Certificate Serial No. [xxxx].
10. The Director of Children's Services investigated the matter and filed a report dated 14.8. 2018 which is in favour of the proposed adoption.
11. Kenya Children's Homes Adoption Society also filed a report dated 25.11.2016 in which they stated that the Applicant had an initial Application for adoption which was successfully finalized on 17.7.2012.
12. Denying a child a home for reasons unknown is not in the Best Interest of the Child while all the necessary legal requirements for adoption have been satisfied. Finally, in deciding this matter I am obliged to adhere to **Section 4(2) of the Children Act 2011**, which provides:

"In all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies, the best interests of the child shall be a primary consideration.

13. In the case of **NHNOS v Little Angels Network [2014]eKLR** the court stated:

"....The child now requires stability in his life. I am firmly of the opinion that the best interest of this child will be served by allowing his adoption by the applicants. Based therefore on the foregoing I hereby grant this application for adoption...."

14. The Court appointed MN as guardian ad Litem to the child on 12.4.2018. The guardian ad litem made a report which is in favour of the adoption.
15. I have considered the Originating Summons herein together with all the reports filed and Affidavits in Support of the same.
16. I find that the Applicant have met the legal threshold for adoption of the child and I accordingly order as follows;

(i) THAT the Applicants be and are hereby authorized to adopt Baby B a.k.a. LC. a.k.a. IWW

(ii) THAT the Consent of the biological parents is dispensed with since the child was found abandoned.

(iii) THAT the Child shall be known as IWW upon adopted.

(iv) THAT the date of birth shall be 14.1.2014 and the child shall be presumed a Kenyan Citizen since she was found in Kenya.

(v) The Registrar General is directed to enter this Adoption order in Adoption Register.

(vi) THAT KN be and is hereby appointed legal guardian of the Child in case of incapacity by

the Applicants before the Child reaches the age of majority.

(vii) THAT the guardian ad litem is discharged forthwith.

DELIVERED, SIGNED AND DATED IN OPEN COURT THIS 5TH DAY OF APRIL, 2019

ASENATH ONGERI

JUDGE OF THE HIGH COURT OF KENYA, NAIROBI