



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA

AT NAKURU

ADOPTION CAUSE NO 10 OF 2018

IN THE MATTER OF BABY A A a.k.a. A A MINFANT

AND

W M G)

M N M)..... APPLICANTS

JUDGMENT

The application is brought by way of Originating Summons and is dated the 22nd June, 2018. The Applicants WMG (**WMG**) and MNM (**MNM**) through their advocates, Karen Wanderi & Company Advocates seek the following orders;

1. Spent

2. Spent

3. Spent

4. Spent

5. THAT the applicants be authorized to adopt BABY AA to be known as AAM.

6. THAT LMM of Post Office Box xxx, KISII in the Republic of Kenya be appointed Legal Guardian of the minor.

7. THAT it is directed that the Registrar General shall make in the Adopted Children Register an entry recording the adoption in accordance with the particulars set out in the Schedule to this order.

8. THAT the Registrar of Births and Deaths be and is hereby directed to issue the child with certificate of birth in the name of AAM.

The applicants and husband and wife. They solemnized their marriage at the Registrar's Office, Kisii Central, Kisii Sub-County on 25/11/2015 under the **Marriage Act, 2014** and were issued with a certificate of marriage serial number xxxx. **WMG** resides in USA – Dallas where he works at [Particulars Withheld] while **MNM** is a teacher and resides at Masaba South Sub-County. The applicants have been blessed with seven biological children, all female namely; DK M, LM, CK M, MK, SK, CM, RO. They have all consented to the intended adoption of **AA a.k.a. AAM** as per their letter and identity papers available. **WMG** and **MNM** desire to adopt a male child, baby **AA a.k.a AAM** in order to overcome the cultural wrath for not being able to have a male child and also to make baby **AA a.k.a AAM** a bonafide member of their family.

AA a.k.a AAM was born to the late **DMM** on 27th August, 2008 at Ichuni Sub Location as per birth certificate entry number Lxxx. His mother was a secondary school student. She developed heart complications during pregnancy period, her parents **RMB** and **PNM** thus gave baby **AA a.k.a AAM** to the applicants herein to live with her temporarily until their daughter's heart condition and education were solved. Baby **AA a.k.a AAM**'s mother **DMM** passed on 1st September, 2009 due to Malaria complications. The death certificate entry number Lxxx is available. After D's death the baby **AA a.k.a AAM** continued to live with the applicants like their own child with the consent of his grandparents.

Baby **AA a.k.a AAM**'s grandparents gave consent to the applicants for adoption so that they can continue to accord him proper parental care

and guidance as per their consent letter available.

WMG and **MNM** approached the Kenya Children's Home Adoption Society on 25th August, 2017 with an intention to legally adopting baby **AA a.k.a AAM**. They were taken through the adoption process and its implications and took the application forms which they filled and returned on 13th September, 2017. An interview session and a home study was conducted at their Ichuni, Keroka residence on 21st November, 2017 aimed at assessing the applicants' suitability to adopt or otherwise in accordance to **Section 158** of the **Children's Act 2001** and **Section 19** of the **Children (Adoption) Regulations 2005**. Baby **AA a.k.a AAM**'s grandparents were also taken through a memorandum headed "ADOPTION FOR CHILDREN EXPLANATORY MEMORANDUM FOR BIOLOGICAL PARENTS/GUADIANS OFFERING CHILD/REN FOR ADOPTION" which they understood and signed the Certificate of Acknowledgement as a confirmation of their understanding on 13th September, 2017. They also swore and signed an affidavit of consent before the commissioner of oaths giving the final consent towards this adoption application.

The society found **WMG** and **MNM** to be appropriate adoptive parents in their case committee sitting on 21st February, 2018. A freeing certificate serial number xxx was issued in compliance to **Sections 177(7) (b) & 156(1)** of the **Children's Act 2001** respectively in respect of baby **AA a.k.a AAM**.

On 20th July, 2018 the Court ordered that the County Director, Department of Children's Services, Ministry of Labour, Social Security and Service Affairs, Masaba South Sub-County, Kisii County to investigate the applicants' fitness to adopt baby **AA a.k.a AAM**. LMM of Post Office Box Number xxxx, KISII in the Republic of Kenya was appointed as *Guardian ad Litem* of baby **AA a.k.a AAM**. The consent of the biological parents of the infant was dispensed with and the minor was presumed a Kenyan citizen.

The medical reports available reveal that baby **AA a.k.a AAM** is in good health. His HIV status is negative. The child has bonded well with the family and the other children view him as their brother.

Beatrice M. Obutu the County Children Coordinator, Kisii County conducted an initial interview on the **WMG** through WhatsApp Video call on 5th September, 2018. She also made a home visit at their residence within Masaba South Sub-County on 20th August, 2018 and interrogated **MNM**. The grandparents of baby **AA a.k.a AAM** were also interrogated alongside the area chief of the maternal grandparents one RK, Fr. T OM, the priest of the adoptive parents, HKA and PA, sister and brother to **MNM** respectively and MM the sister to the **WMG**. She filed favourable report to court signed on 13th October, 2018 and received in this court on 15th October, 2018.

Upon reading the above report and satisfying myself that all the legal requirements have been adhered to, this Court is satisfied that the applicants are suitable persons to adopt **AA a.k.a A A M**. It is therefore ordered that:

- 1. THAT the applicants be and are hereby authorized to adopt BABY AA to be known as AAM.**
- 2. THAT LMM of Post Office Box xxx, KISII in the Republic of Kenya be and is hereby appointed Legal Guardian of the minor.**
- 3. THAT the Registrar General do make in the Adopted Children Register an entry recording the adoption in accordance with the particulars set out in the Schedule to this order.**
- 4. THAT the Registrar of Births and Deaths be and is hereby directed to issue the child with certificate of birth in the name of A A M.**

Dated and Signed at Nakuru this 3rd day of April, 2019.

A. K. NDUNG'U

JUDGE