



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA

AT NAKURU

ADOPTION CAUSE NUMBER 9 OF 2018

IN THE MATTER OF BABY MB..... INFANT

AND

JMK.....1ST APPLICANT

RMM.....2ND APPLICANT

JUDGMENT

The Application is brought by way of Originating Summons dated 6th June, 2018. The 1st and 2nd applicants **JKM & RMM** through their advocates, Obura Mbeche & Company Advocates seek the following orders:

1. **Spent**
2. **Spent**
3. **THAT the consent of the biological parent of BABY MB be dispensed with since the subject was abandoned so soon after birth.**
4. **THAT the applicants be authorized to adopt BABY MB and the subject's name to be changed to CKM.**
5. **THAT the Registrar-General do make the appropriate entries in the adopted children's register in respect of BABY CKM.**
6. **THAT the court does issue such other orders as may be necessary in the best interest of the child.**
7. **THAT costs be in the cause.**

The 1st and 2nd applicants are husband and wife. The 1st applicant works with [particulars withheld] while the 2nd applicant is a business lady. They reside within Nakuru County. They solemnized their marriage under the **Marriage Act, 2014** at Registrar' Office in Nakuru Sub-county, Nakuru County in the Republic of Kenya on 1st February, 2017. They have never been blessed with a biological child of their own. This is due to the 2nd applicant's medical complications. The couple thus desire to have children through adoption and in this case, baby **MB**, a male child, so that they can bring him up as their own, with plans to adopting another child thereafter.

Baby MB was presumably born on 12th June, 2016. He was found abandoned on the night of 12th June, 2016 by the road side at Githurai 44 near Wonder Land area. The matter was reported at Kiamumbi Police Station and booked vide OB Number [xxxx]. On 13th June, 2016 **baby MB** was admitted to the Nest Home. The Sub-County Children's Office made an application to court dated 9th August, 2016 recommending court to commit **baby MB** to the Nest Home. **Baby MB** was officially committed to Nest Home on 22nd August, 2016 by the **Senior Resident Magistrate's Court Nairobi** vide **Protection and Care Case Number 264 of 2016** for a period of three(3) years.

On 4th November, 2016 the applicants made an application to the Little Angels Network to legally adopt a male child. The organization conducted initial interviews with the applicants on 9/11/2016, they were taken through counselling on 9/11/2016 and a home visit was conducted to interrogate them on their suitability and readiness to adopt **baby MB**. They were duly informed on the adoption process and its implications. The Little Angels Network established that the applicants meet the necessary pre-requisite to adopt as prescribed in the **Children Act 2001** and the subsequent **Children Adoption Regulations 2005**. The organization in its case committee sitting on 16th December, 2016 was satisfied that the applicants meet the legal and social parameters for adoption. The Little Angels Network therefore

issued a Certificate of Declaring a Child Free for Adoption serial number 001844 in respect of **baby MB** dated 31st January, 2017.

The Officer Commanding Station, Makongeni Police station vide a letter dated 13th January, 2017 confirmed that they had not received anybody claiming the abandoned child. The applicants sought placement with **baby MB**. and the same was granted on the 11th May, 2017.

On the 16th day of October, 2018 the court ordered the Director, Children's Services, in the Ministry of Labour and Social Protection to conduct investigations as to the suitability of the applicants to adopt BABY MB and submit a report of their findings. One PNM of P.O. Box [xxxx] NAKURU in the Republic of Kenya was appointed as *guardian ad litem* of **Baby MB**.

Beatrice B. Mandieka, a personnel from the children's department conducted an initial interview with the applicants on 27/12/2018, and, later on 20/1/2019 made a home visit at the applicants' residence within Nakuru County to establish their suitability. It was observed that baby MB bonded well with the applicants. The Nakuru County Children's Coordinator filed a favourable report on the applicants' fitness to adopt **Baby MB** dated 4th February, 2019.

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 to adopt **Baby MB** It is therefore ordered that:

1. **THAT the consent of the biological parents of BABY MB be and is hereby dispensed with since the subject was abandoned so soon after birth.**
2. **THAT BNM be and is hereby appointed as the Legal Guardian of Baby MB.**
3. **THAT the applicants be and are hereby authorized to adopt BABY MB and the subject's name to be changed to CKM.**
4. **THAT the Registrar-General do make the appropriate entries in the adopted children's register in respect of BABY CKM.**
5. **THAT costs be in the cause.**

Dated and Delivered at Nakuru this 22nd day of May, 2019.

A. K. NDUNG'U

JUDGE