



**REPUBLIC OF KENYA**

**IN THE HIGH COURT OF KENYA**

**AT NAIROBI**

**ADOPTION CAUSE NO.290 OF 2015**

**IN THE MATTER OF THE CHILDREN ACT NUMBER 8 OF 2001**

**AND**

**IN THE MATTER OF AN APPLICATION FOR**

**ADOPTION OF BABY JA aka G aka PWN (MINOR)**

**SNK.....APPLICANT**

**JUDGMENT**

1. By amended Originating Summons dated 25<sup>th</sup> July 2017, filed under Sections 154 and 158 of the Children's Act, the applicant **SNK** is seeking to be authorized to adopt baby **JA** a.k.a. **G** a.k.a. **PWN** hereinafter referred to as the child. She seeks that upon making the adoption the child be called **PWN**. She also seeks that **TN** (applicant's sister) be the Legal Guardian of the child in the event of death or incapacity of the applicant before she is of full age. I must however note that proceedings in respect of this child had earlier on proceeded before J. Musyoka who on 25<sup>th</sup> November 2016 delivered his judgment declining to grant the orders as the names of the baby were not tallying as per the original Originating Summons.

2. The applicant is Kenyan by birth and citizenship. She was born on 15<sup>th</sup> March 1965. She is single and is a practicing Christian. The applicant who was once married but separated 2001 has not been blessed with her own biological child. She has a steady monthly income borne out of business and is capable of financially providing for the child's basic necessities.

3. The child was estimated to have been born on 15<sup>th</sup> June 2013 and was found abandoned in Mathare Kosovo on 14<sup>th</sup> July 2013. The matter was reported to Muthaiga Police Station via OB. No. [Particulars Withheld]. The child was placed with Thomas Barnardos House for interim care and protection on 14<sup>th</sup> July 2013. She was then formally committed at Thomas Barnardos for care and protection by the Senior Resident Magistrate's Children Court at Nairobi via care and protection case No. 266 of 2013. A letter from Muthaiga Police Station dated 25<sup>th</sup> February 2015 indicates that efforts to trace the minor's parents have not been fruitful. J aka G was declared free for adoption by the Kenya Children's Home Adoption Society by the committee sitting of 11<sup>th</sup> March 2015 and issued with a freeing certificate serial number 1\*\*\* in compliance with section 156(1) of the children's Act. The child was placed with the applicant on 19<sup>th</sup> June 2015 for mandatory 3 months consecutive period for bonding in compliance with Section 157 (1) of the Children's Act.

4. The applicant does not have any biological children of her own but is a second-time adoptive parent having adopted a male child in 2001. She is of good health and financially capable to provide for the needs of the child. Her family is supportive of the adoption.

5. The Department of children services and Guardian ad litem filed their reports on 27<sup>th</sup> September 2018 and 24<sup>th</sup> January 2019 respectively. The reports recommend the adoption as the applicant has fulfilled the legal requirements and has proved capable of taking on parental responsibility. The prospective adoptive parent is below the age of 50 years and has not reached the age limit of 65 years hence she is in compliance with Section 158(1). She is financially and economically stable and is able to provide for the child. She has bonded well with the child and her family relatives are fully in support of the adoption.

6. It is evident that the applicant has fulfilled all the legal requirements relating to the adoption of the child. This court is satisfied that the applicant is qualified and able to take care of the child.

7. During the hearing, the applicant pleaded with the court to allow her adopt the baby contending that she had understood the consequences of adoption and her obligations including the right for the baby to inherit her property. Both stake holders recommended the applicant as caring, responsible, financially stable, a firm Christian with no criminal record, mentally, physically and morally fit to adopt the baby.

8. Before making any decision affecting the affairs of a baby, a court is enjoined to uphold the cardinal principle of the best interest of a child underpinned under Article 53 (2) of the Constitution and Section 4 (2) and (3) of the Children's Act.

9. This court finds that it would be in the best interest of the child to be adopted by the applicant and consequently do allow the application for adoption with orders that:

**(a) The Applicant SNK is hereby allowed to adopt baby JA a.k.a. G. a.k.a. PWN and who shall henceforth be known as PWN.**

**(b) TN (applicant's sister) shall be the Legal Guardian of the child in the event of death or incapacity of the applicant before she is of full age.**

**(c) The Registrar General to enter this order in the adoption register.**

**(d) The child is presumed to be a Kenyan by birth and is entitled to all rights that accrue to Kenyan citizens under the Kenya Constitution 2010 and the Kenya citizenship and Immigration Act.**

**(e) That the guardian ad litem is hereby discharged.**

**DATED, SIGNED AND DELIVERED AT NAIROBI ON THIS 17<sup>TH</sup> DAY OF MAY 2019.**

**J. N. ONYIEGO**

**JUDGE**