



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT MOMBASA

ADOPTION CAUSE NO. 2 OF 2018 (OS)

AND

IN THE MATTER OF: THE CHILDREN'S ACT (NO. 8 OF 2001)

AND

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ADOPTION CAUSE NO. 2 OF 2018 (OS)

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IN THE MATTER OF: THE CHILDREN'S ACT (NO. 8 OF 2001)

AND

**IN THE MATTER OF: IN THE MATTER OF AKP also known as BABY A also known as ABANDONED UNKNOWN MALE
BABY alias A also known as UNKNOWN MALE BABY also known as ABANDONED MALE CHILD KP alias A**

AND

**IN THE MATTER OF: AN APPLICATION FOR ORDERS OF ADOPTION OF AKP also known as BABY A also known as
ABANDONED UNKNOWN MALE BABY alias A also known as UNKNOWN MALE BABY also known as ABANDONED MALE
CHILD KP alias A**

BETWEEN

1. PMK

2. FNK.....APPLICANTS

AND

LITTLE ANGELS NETWORK.....RESPONDENT

JUDGEMENT

1. PMK and his wife FNK the Applicants herein seek by their Originating Summons dated 15.12.17 to adopt a child known as AKP also known as Baby A also known as Abandoned Unknown Male Baby alias A also known as Unknown Male Baby also known as Abandoned Male Child KP alias A (hereinafter called Baby A).

2. Baby A is estimated to have been born on 23.2.14. He was found abandoned within Likoni area of Mombasa County on 23.2.14 by one Asha Ali. She reported the matter at the Likoni Police Station vide Occurrence Book Number [xxxx]. Baby A was then taken to Coast

General Hospital for medical attention. On 11.3.14, a vacancy for the child was secured at Baby Life Rescue Centre, Mombasa for temporary care and protection pending committal. The Children’s Court at Tononoka, Mombasa, did on 1.8.14 *vide* Protection and Care Case Number 221 of 2014 formally commit the child to Baby Life Rescue Centre for a period of 3 years. By a final letter dated 6.1.14, Likoni Police Station confirmed that since Baby A was reported abandoned on 23.2.14, no one had come forward to claim him.

3. The Applicants were assessed and taken through the adoption process and its implications by Little Angels Network a registered adoption society. On 29.4.14 the society’s case committee approved the Applicants for the adoption of a child of their preferred age and sex. In compliance with Section 156 of the Children Act, Little Angels Network *vide* its certificate serial number [xxxx] declared the child free for adoption on 7.8.15. Thereafter the child was identified for the Applicants and was placed with them on 2.10.15.

4. HBWW was by an order of this Court of 4.4.18 appointed as the guardian *ad litem* for the Baby A pending the hearing and determination of the adoption application.

5. The Applicants have gone through the requisite assessments and reports in respect thereof have been filed. Little Angels Network which arranged the adoption of the child filed its report on 11.7.18. The report by Philip Nzenge the Mombasa County Children Coordinator, for the Director of Children Services was filed on 3.4.19 while that of Hannah BWW the Guardian *ad litem* was filed on 11.7.18. All these reports are favourable and recommend the proposed adoption.

6. I have carefully assessed the reports filed herein. I note that the Baby A has been in continuous care and control of the Applicants for a period of 3½ years which is more than the statutory 3 months required under Section 157 of the Act. The Applicants are not younger than 25 years nor older than 65 years and are both more than 21 years older than the Baby A. Section 158 of the Act has thus been complied with. The Applicants have been made aware of the consequences of an adoption order as well as the rights of an adopted child. They shall assume all parental rights and duties of the biological parents in respect of Baby A. I am satisfied that they fully understand that the adoption order is final and binding during the lifetime of the child and that the child shall have the right to inherit their property. The Applicants cannot under any circumstances give up the child. The Applicants propose to name the child KKM.

7. From the aforesaid reports the Court is further satisfied that the Applicants have the financial resources and social and emotional capability to bring up Baby A. The Applicants have nominated the male Applicant’s younger brother JKK to be the legal guardian of the child in the event of the Applicants dying or becoming incapacitated before the child is of full age. The Court examined the proposed legal guardian and is satisfied as to his readiness, willingness and ability to be legal guardian of the child.

8. Having taken into account the foregoing factors, this Court has formed the opinion that it would be in the best interest of Baby A to be adopted by the Applicants. The Court is further satisfied that all the legal requirements for a local adoption have been met and makes the following Orders as prayed in the Originating Summons herein:

- a) The Applicants PMK holder of national identity card number [xxxx] and his wife FNK and his wife LWM holder of national identity card number [xxxx] are hereby allowed to adopt AKP also known as Baby A also known as Abandoned Unknown Male Baby alias A also known as Unknown Male Baby also known as Abandoned Male Child KP alias Adam who shall henceforth be known as KKM.
- b) The Child is hereby declared to be a Kenyan citizen by birth.
- c) JKK holder of national identity card number [xxxx] is hereby appointed legal guardian of the child in the event that the Applicants die or are otherwise incapacitated before the child attains the age of eighteen years.
- d) I direct the Registrar General to enter this order in the Adoption Register.
- e) HBWW the guardian *ad litem* is hereby discharged.

It is so ordered.

DATED, SIGNED and DELIVERED at MOMBASA this 10th day of May 2019

M. THANDE

JUDGE

In the presence of: -

..... **for the Applicants**

..... **Court Assistant**