



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT MACHAKOS

ADOPTION CAUSE NO. 9 OF 2018

(formerly NAIROBI ADOPTION CAUSE 13 OF 2018)

IN THE MATTER OF THE CHILDREN ACT 8 OF 2001

AND

IN THE MATTER OF BABY KNOWN AS ABANDONED CHILD A aka WP

AND

NMK.....1ST APPLICANT

RNM.....2ND APPLICANT

RULING

1. The adoption order was sought vide two applications. The first application is brought by way of chamber Summons under section 160(1) of the Children Act No 8 of 2001. It is dated 29th January, 2018. The Applicants **NMK** and **RNM** through their advocates Mudeshi Muhanda and Co Advocates seek the following orders:

1. **THAT** **JMW** of P.O. Box [xxxx] Matuu be appointed Guardian ad Litem of **BABY WP** an infant.

2. **THAT** the honorable court to direct the Director of Children's Services to compile the requisite report on the applicants' fitness to adopt the infant under the Children Act.

2. The Second application is brought by way of originating Summons under Section 154, 156, 157, 158, 159, 160 163, 164 and 170 of the Children Act No 8 of 2001. It is dated 29th January, 2018. The Applicants **NMK** and **RNM** through their advocates Mudeshi Muhanda and Co Advocates seek the following orders

1. **THAT** the Applicants be authorized to adopt **BABY WP** an infant and who is to be known as **WWM** and the Registrar General be directed to enter this adoption into the register of adoptions.

2. **THAT** **SKK** and **CNW** be appointed Legal Guardians of the child.

3. **THAT** the child be presumed to be born in Kenya.

3. In the preliminary stage, the first application was allowed by the court.

4. According to the applicant's affidavit filed in court, the applicants are married to each other from 1/11/2016. They are Kenyan citizens as per the identity cards annexed to the application.

5. According to the applicant's affidavit dated 29th January 2018, **SK** and **CN** who are the 1st applicant's brother have consented to be legal guardian of the minor. The applicants maintain that they had never been convicted of a criminal offence and attached police clearance. They averred that they approached Buckner Kenya seeking to adopt a child and were informed that the said minor was free for adoption and after having confirmed that no one claimed the child they took up the said child for mandatory bonding.

6. **SK** and **CN** swore an affidavit dated 29th January, 2018 to confirm consent to act as Legal Guardians.

7. According to a report filed on 17th April, 2018 by Buckner Kenya Adoption Services, the minor was found abandoned on the 7th August, 2016 at a shamba along the junction of Jambo Kiamwangi Road in Mathira East Sub-County and the matter reported to Karatina Police Station vide OB[xxxx] and the child was taken to Karatina Sub-county hospital for medical care where she was discharged on 30.8.2016 and admitted to Neema House Infant Rescue Centre for care and protection on 30th August, 2016 through the Childrens Court in Karatina vide committal P& C 8 of 2016.

8. On 10th February, 2017 the Karatina Police Station confirmed that nobody claimed the child and she was placed under the care and control of the applicants from 24th February, 2017 after she was declared free for adoption by the Buckner Kenya Adoption Services Case committee vide certificate number [xxxx] issued on 22nd February, 2017.

9. On 31.7.2018 this Court directed the Director of Children Services to conduct investigations as to the suitability of the Applicants to adopt **the minor** and submit a report and findings to Court.

10. Francis Kariuki is the Sub-County Children's Officer, Masinga. He conducted a Social Inquiry on the Applicant by visiting the applicants at their home on 27th September, 2018. It was observed that the applicants were blessed with a baby boy who passed on and thus the couple have no child of their own and seek to adopt the minor. The minor seemed to have bonded well with the applicants and he opined that the applicants are well suited for adoption.

11. The Sub-County Children's Officer, Machakos County filed a favourable report dated 22.10.2018 as to the suitability of the Applicants to adopt the minor. He appeared before me on 24.4.2019 to recommend the applicants' application and to have the report dated 22.10.2018 in respect of a home visit that he undertook on 27.9.2018 confirming the suitability of the applicant to be adopted in the proceedings.

12. On 8.11.2018, Mary Kamiri from Buckner Kenya Adoption Services appeared in court to recommend the applicants' application and to confirm the suitability of the applicants to adopt the minor as well as adopt the report dated 16.4.2018. **JMW, CNW and SKK appeared before me on the said date** to confirm and rely on the contents of their affidavits and willingness to take up their duties as well as recommend the applicants to adopt the minor. The applicants also appeared before me on the same day and relied on their affidavits to support the application and indicated willingness to adopt and cater for the needs of the minor.

13. This court is satisfied that the Applicants are suitable persons to adopt the minor and that they are financially stable and have the means to provide and care for her. I also find that it is in the best interests of the child to allow the application.

For the above reasons, the Court orders as follows;

1. **THAT the Applicants be and are hereby authorized to adopt BABY WP an infant and who is to be known as WW M.**
2. **THAT SKK and CNW be and are hereby appointed Legal Guardians 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 Guardian ad Litem is hereby discharged.**

Orders accordingly.

Dated and delivered at **Machakos** this **18th** day of **July, 2019**.

D.K KEMEI

JUDGE