



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT MACHAKOS

ADOPTION CAUSE NO. 5 OF 2015

IN THE MATTER OF BABY KO

ON APPLICATION FOR AN ADOPTION ORDER

ANN.....APPLICANT

RULING

1. This application is brought by way of Originating Summons dated 10th March, 2015 by the Applicant seeking the following orders:

- (1) THAT the requirements of Section 158(4) (a) of the Children's Act be waived as provided for by Section 159(I) of the Act.***
- (2) THAT JNM be appointed Guardian ad Litem in this case.***
- (3) THAT the Applicant be authorized to adopt baby KO and the baby be known as.***
- (4) THAT SMK be appointed Legal Guardian of the child.***
- (5) THAT the Director of Children's Department do investigate the case and file a report.***
- (6) THAT it is directed that the Registrar-General shall make in the adopted Children's Register an entry recording the adoption in accordance with the particulars set out in the Schedule attached hereto.***

2. In the preliminary stage, prayer 2 and 5 were granted by the court.

3. The Applicant **A** is aged 55 years and is a coffee farmer. She is a widow and resides in Machakos- Kathiani. She received the infant under her custody as from 20.9.2014 and fostered him since then. She was married to Harrison Musyoka in 1998 and had a happy marriage until he passed on in 2001.

4. SMK swore an affidavit dated 10th March, 2015 to confirm consent to act as Legal Guardian and that she has no objection to the Applicant adopting **Baby KO**.

5. **Baby KO** was estimated to have been born on 29th June, 2008 via entry number 2613129752, and birth certificate number 1603480. He was found stranded on 3.7.2011 near Jericho Hall opposite PAG Church. He was rescued and taken to Buruburu police station whereupon the matter was reported and recorded at the Buruburu Police Station vide OB/36/4/7/11 and PCR 250/1. The minor was referred to Nairobi Childrens Home on 6.7.2011 and no one came to claim him after his pictures were placed in the newspapers. He was later referred to Familia ya Ufariji Childrens Home for further care on 19.3.2012 and was committed to the said home for care and protection by the Nairobi Childrens Court on 16.3.2012 after committal issued via **P& C No. 311 of 2011**.

6. The minor remained unclaimed and on 21.5.2014, **Baby KO** was declared free for adoption by the Case Committee of the Kenya Childrens Homes Adoption Society vide certificate number 1086 issued on 21.5.2014.

7. On 16.11.2015 this Court directed the Director of Children Services Machakos to conduct investigations as to the suitability of the Applicant to adopt **Baby KO** and submit a report and findings to Court.

8. Emily Kimanzi is the Machakos Sub-County Children's Officer. She conducted a Social Inquiry on the Applicant by visiting and interrogating her at her home on an unknown date. It was observed that the Applicant is a widow and lives in her matrimonial home which is a 2 bedroomed stoned bed house that has electricity and a water tank and the place is fertile. She grows bananas, avocados and green vegetables. She has taken care of **baby KO** and bonded well with the said minor and it is in the best interests of **baby KO** to be adopted by

the applicant. On 6/09/2018, Emily Kimanzi, the Sub-County Children's Officer, Machakos filed a favourable report as to the suitability of the Applicant to adopt **baby KO** and she confirmed this report when she appeared in court on 24/01/2019.

9. On 20.7.2016, Diana Kaisha from Kenya Childrens Home Adoption society appeared in court to recommend the applicant's application and to have the report dated 9.6.2015 and filed on 18.6.2015 confirming the suitability of the Applicant to be adopt the baby in these proceedings. SMK and JNM appeared in court on 20.7.16 to confirm and rely on the contents of their affidavits and willingness to take up their duties as Guardian Ad Litem and Legal Guardian respectively as well as recommend the Applicant to adopt **baby KO**.

10. This court is satisfied that the Applicant is a suitable person to adopt Baby KO and that she is financially stable and has the means to provide and care for him. It is in the best interest of the minor to allow the application for adoption. It is noted that the baby has bonded quite well with the Applicant.

11. In the result the Applicant's originating summons dated 10/03/2015 is allowed in the following terms.

(1) THAT the Applicant be and is hereby authorized to adopt baby KO and the baby be known as KMN.

(2) THAT SMK 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 Guardian Ad Litem is hereby discharged.

Dated and delivered at Machakos this 16th day of July, 2019.

D.K. KEMEI

JUDGE