



REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA AT NAIROBI
FAMILY DIVISION
ADOPTION CAUSE NO. 110 OF 2018
IN THE MATTER OF THE CHILDREN ACT, 2001

AND

IN THE MATTER OF BABY B

IN THE MATTER OF AN APPLICATION FOR ADOPTION BY

IMW1ST APPLICANT

BKM.....2ND APPLICANT

JUDGEMENT

1. The applicants are a Kenyan couple aged 43 and 28, respectively. The 1st applicant is a businessman selling shoes in [Particulars Withheld] Estate in Nairobi while the second applicant is a business lady in [Particulars Withheld] services in the same area. They stayed in a come-we-stay union since 2012 and thereafter formalized their union at the Registrar's Office on 16th April 2016. They have not been able to get a child. The couple filed this originating summons on 2nd August 2018 seeking to be allowed to adopt the male child known as Baby B.

2. Baby B was presumably born on 20th February 2015. The baby was found by a good samaritan having been abandoned at a school gate in [Particulars Withheld]. The good Samaritan reported the matter to the area Chief and then to Kilimani police station under OB [xxxx]. On 22nd July 2015 the Baby was sheltered and committed to Thomas Barnado House vide **Protection and Care Case Number 158 of 2015**. Police efforts to trace the parents of the child did not bear any fruits. The child was declared free for adoption under **Section 156(1)** of the **Children's Act** by Kenya Children's Home Adoption Society on 18th January 2017 under Certificate Number xxxx. On 26th January 2017 the child was placed with the applicants for statutory bonding. The reports indicate the child has bonded well with the applicants.

3. On 25th October 2018 the court appointed FMWK as the legal guardian of the child with the direction that she investigates and find out if the applicants could suitably adopt the child. The Director of Children Services was ordered to conduct similar investigations. Both filed reports indicating that the applicants had taken good care of the child, and were emotionally and financially capable of adopting him.

4. The court finds that it is in the best interest of the child to be adopted by the applicants. The applicants have demonstrated their ability to provide a conducive home and family environment in which the child will grow and develop. They will assume all parental rights and obligations of the biological parents of the child once adopted, and shall treat her as if she was born to them. They have been made aware that once the adoption order is made, it shall be final and binding during the lifetime of the child. The child shall have the right to inherit their property. The applicants shall not be able to give up the child owing to any subsequent unforeseen behaviour or other changes in the child. This court dispenses with the consent of the child's biological parents or relatives as they have never been traced.

5. Having been satisfied that all the legal requirements for a local adoption under the **Children Act** have been met, the following orders shall issue:-

a) the applicants IMW and BKM and are hereby allowed to adopt Baby B;

b) Baby B shall henceforth be known as FBM;

c) PKK is hereby appointed to be the child's legal guardian in the event of death or incapacity of the applicants before he is of full age and fully self-reliant;

d) the Registrar-General is directed to enter this adoption in the Adopted Children Register; and

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

DATED and DELIVERED at NAIROBI this 11TH day of JULY 2019.

A.O. MUCHELULE

JUDGE