



**REPUBLIC OF KENYA**

**IN THE HIGH COURT OF KENYA AT NAIROBI**

**FAMILY DIVISION**

**ADOPTION CAUSE NO. 63 OF 2018**

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

**AND**

**IN THE MATTER OF BABY PF aka GWK**

**IN THE MATTER OF AN APPLICATION FOR ADOPTION BY**

**MKM.....1<sup>ST</sup> APPLICANT**

**TWM.....2<sup>ND</sup> APPLICANT**

**JUDGEMENT**

1. The applicants are a Kenyan couple aged 48 and 45, respectively. The 1<sup>st</sup> applicant is a Lecturer at [Particulars Withheld] University while the 2<sup>nd</sup> applicant is a business woman dealing in business of tailoring, printing and counselling. The applicants solemnized their marriage in 1997 under marriage certificate number [xxxx]. They have a son TMK, whom they adopted on 6<sup>th</sup> July 2015. They filed Originating Summons seeking to be allowed to adopt Baby PF

2. Baby PF was born on 18<sup>th</sup> July 2012 (birth certificate No. xxxx) at Sololo Mission Hospital in Moyale to one NQW from Ethiopia. She refused to provide maternal care to the baby after delivery. She threatened to cause harm to the child, and abandoned it. She claimed that her parents chased her out of their home after they discovered she was pregnant. The Hospital Administrator, (Sister Judith Bomet) reported the matter to Sololo Police Station vide O.B number xxxx. The mother was charged at Moyale Law Courts and sentenced to Community Service and later disappeared to Ethiopia. The child was placed under foster care at Nairobi Children's Home on 10<sup>th</sup> August 2012 and was committed to the Home as a child in need of Care and Protection vide **Case number 252 of 2012** on 9<sup>th</sup> November 2012 by the Children's Court at Nairobi. The child was declared free for adoption under **section 156(1)** of the **Children's Act** by Buckner Kenya Adoption Services on 28<sup>th</sup> October 2016, and placed with the applicants on 4<sup>th</sup> November 2016 after the police confirmed from their final letter dated 26<sup>th</sup> August 2014 that no one has shown interest or claimed the child.

3. On 18<sup>th</sup> October 2018 the court appointed MWM the guardian *ad litem* and ordered her and the Director of Children Services to prepare and file the requisite reports after carrying out a social inquiry on the applicants to determine their suitability to adopt the child. The Two reports were filed both recommending the applicants be allowed to adopt the child. The reports found that the applicants were socially, emotionally and financially stable and suitable to adopt the child. It was also found that the child and the applicants had bonded well.

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 mother who abandoned it and disappeared into Ethiopia.

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 MKM and TWM are hereby allowed to adopt Baby PF.;**
- b) **Baby PF shall henceforth be known as GWK;**

c) LWK is hereby appointed to be the child's legal guardian in the event of death or incapacity of the applicants before she 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 11<sup>TH</sup> day of JULY, 2019.

A.O. MUCHELULE

JUDGE