



REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA AT NAIROBI
MILIMANI LAW COURTS
FAMILY DIVISION
ADOPTION CAUSE NO. 99 OF 2018 (OS)
IN THE MATTER OF THE CHILDREN ACT, 2001

AND

IN THE MATTER OF BABY DR
IN THE MATTER OF AN APPLICATION FOR ADOPTION BY

JMK.....1ST APPLICANT

EMK.....2ND APPLICANT

JUDGMENT

1. The applicants JMK and EMK are a Kenyan couple aged, 48 and 45, respectively. The 1st applicant is a casual worker at [particulars withheld] Limited while the 2nd applicant is a warehouse assistant at [particulars withheld]. They solemnized their marriage on 17th December 2005 at Christ Alive Church in Nairobi. They do not have a child of their own. They filed originating summons on 24th July 2018 seeking to adopt Baby DR.
2. Baby D.R was presumed to be born on 1st July 2016. The child was on 8th July 2016 found abandoned by members of the public along the banks of Nairobi River in Dandora phase IV. The area volunteer Children Officer referred the case to Dandora Police Station where the matter was booked vide OB No 33/8/7/2016. The child was admitted at Imani Children's Home on 8th July 2016. On the 29th March 2017 he was committed to the care of Imani Children's Home through the Children's Court at Nairobi vide Care and Protection Case Number 87 of 2017. On 1st March 2017 the Dandora Police Station confirmed that nobody had claimed the child since he was abandoned. The child was declared free for adoption under **section 159(a) (i)** of the **Children's Act** on 7th April 2017 by Buckner Kenya Adoption Services vide certificate number [particulars withheld], and placed under the care and control of the applicants on 19th November 2017 for bonding.
3. On 18th October 2018 the court appointed G V C as 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, each 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 him as if he 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 it was found abandoned.
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 JMK and EMK are hereby allowed to adopt Baby DR;
- b) Baby DR shall henceforth be known as CMM;

c) the child's date of birth shall be 1st July 2016, and shall be presumed Kenyan by birth having been abandoned at Dandora in Nairobi, Kenya;

d) JSK and AMS are hereby appointed to be the child's legal guardians in the event of death or incapacity of the applicants before he is of full age and fully self-reliant;

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

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

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

A.O. MUCHELULE

JUDGE