



REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA AT NAIROBI
FAMILY DIVISION
ADOPTION CAUSE NO. 38 OF 2018(OS)
IN THE MATTER OF THE CHILDREN ACT 2001

AND

IN THE MATTER OF BABY KW alias KM

IN THE MATTER OF AN APPLICATION FOR ADOPTION BY

MWG.....1ST APPLICANT

VWW.....2ND APPLICANT

JUDGMENT

1. The applicants MWG and VWG are a Kenyan couple, aged 59 and 52, respectively. They are farmers. Their marriage was solemnized on 7th August 2015 under the **Marriage Act, 2014**. They have no child of their own. On 5th October 2018 they filed the amended originating summons dated 4th October 2018 seeking to adopt Baby KW alias KM.
2. Baby KW alias KM was presumed to have been born on 17th May 2010 in Karatina. The child was on 28th January 2014 abandoned by his mother in a matatu going to Karatina. They had been travelling in the matatu. When the matatu got to Karatina the driver found the child alone in the vehicle. He reported the matter to the police station vide O.B. Number [xxxx]. The child was placed at Karatina Children's Home. The child was later transferred to New Life Home Trust, Nyeri where he was committed to the Home on 22nd May 2014 by Karatina Children's Court in Care and Protection Case Number [xxxx]. The final police letter indicated that the investigations to the matter had not yielded any fruits and no one had gone to claim the boy. The child was declared free for adoption by Buckner Kenya Adoption Services on 30th January 2015 vide Certificate No. [xxxx] and placed with the applicants on 13th April 2016 for bonding.
3. On 14th March 2019 the court appointed JNK and MNN as guardians *ad litem* and ordered them and the Director of Children Services to carry out a social inquiry on the applicants to determine their suitability to adopt the child, and to file reports within 45 days. 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 he 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 MWG and VWW are hereby allowed to adopt baby KW alias KM;
 - b) Baby KW alias KM shall henceforth be known as VKW;
 - c) the child's date of birth shall be 17th May 2010, and shall be presumed Kenyan by birth having been abandoned at Karatina in Kenya;

d) JNK and MNN 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