



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA

AT NAKURU

ADOPTION CAUSE NUMBER 30 OF 2017

IN THE MATTER OF BABY AW a.k.a.

CWA.....INFANT

AND

AMW.....1ST APPLICANT

RWM.....2ND APPLICANT

JUDGMENT

The application is brought by way of originating summons and is dated the 19th June, 2017. The applicants **AMW** and **RWM** through their advocate Makori & Rioba Company Advocates seek the following orders:

1. Spent.
2. Spent.
3. Spent.
4. **THAT** the applicants be authorized to adopt the said child and the child be henceforth called CWA.
5. **THAT** the child be presumed to be a Kenyan Citizen having been born by Kenya parents.
6. **THAT** the Registrar-General do make the appropriate entries in the Adopted children's register in respect of the minor and further the Registrar of Births and Deaths do issue a Birth Certificate in respect thereof.
7. **THAT** the court does issue such other orders as may be necessary in the best interest of the child.
8. **THAT** the costs be in the cause.

The 1st and 2nd applicants are husband and wife respectively. **AMN** and **RWM** solemnized their marriage under the **African Christian Marriage & Divorce Act (Cap 151)** at Ndaragwa Catholic Parish on 4th December, 2004 and were issued with a certificate of marriage serial number 223289. The applicants reside in Lanet Sub-County within Nakuru County. **AWN** works for gain as an education officer while **RWM** is a teacher at [particulars withheld] High School. The applicants have no biological child of their own but have adopted as son by the name AW. They thus desire to expand their family through adoption and to give a needy child a family.

Baby **AW a.k.a. CWM** was presumably born on 10th December, 2015 at Kakamega General Hospital. The minor's birth certificate serial number [xxxx] is available. Baby **AW a.k.a. CWM**'s biological mother HS offered her for adoption due to the fact that she conceived with KN, a first cousin, which is against the family cultural practices hence the child is considered taboo according to the Luhya Customs. KN and RMA(HS's grandmother) vide their letters dated 11th December, 2015 to the Kenya Children Homes Adoption Society requested to offer Baby **AW a.k.a. CWM** for adoption. They were assisted through the offering process and RMA gave a consent on behalf of the family. HS and her grandmother were taken through the parent offering child for adoption process and they affirmed that it was in the best interest of the

child to offer her for adoption by signing Certificate of acknowledgement dated 11th December, 2015. On the same day the child was handed over to the custody of Springs of Life Home as a child in need of care and protection.

On 2nd March, 2016 **Baby AW a.k.a. CWM** was officially committed to the care and custody of Springs of Life Children's Home vide **Protection and Care Case Number 68 of 2016** by the **Kakamega Children's Court**. On 29th January, 2016 HS and RMA swore and signed a final consent for parent offering a child for adoption.

The medical information available indicates that **Baby AW a.k.a. CWM** growth and development is normal and is HIV negative. The home has also ensured that the child has received all the immunizations as per the Kenya Expanded Programme on Immunizations Guidelines.

The applicants approached the Kenya Children's Home Adoption Society on 5th November, 2013 with an intention of being placed with a female child with a view to eventually adopting. They were taken through the adoption process and its implications to which they consented and filled the application forms on 3rd February, 2014.

A home study was conducted by the society's personnel at their Lanet residence in Nakuru on 14th April, 2014. They were thereafter approved to be suitable potential adoptive parents by the society's case committee sitting of 16th July, 2014.

Baby **AW a.k.a. CWM** was declared free for adoption by the Kenya children's Home Adoption Society's case committee sitting of 14th December, 2016 and freeing certificate serial number 1312 issued. The applicants were placed with Baby **AW a.k.a. CWM** on the 3rd February, 2017 after a successful bonding.

On 28th May, 2018 ZWM and JMM of Post Office Box Number [xxxx], NAKURU was appointed as *Guardian ad Litem* of the minor herein and the Director of Children's Services in the Ministry of Labour & Social Protection was directed to investigate the applicants' fitness to adopt and file a report. The minor was presumed a Kenyan citizen.

Salome Waitthaka, a personnel from the children's department interviewed the Applicants on the 13th December, 2018 and made a home visit to the applicants' residence on the 26th November, 2018 for further investigations. Mr. Mwambi Mongare, the County Children's Coordinator filed a favourable report in Court dated 4th April, 2019 on the Applicant's suitability to adopt baby **AW a.k.a CWM**.

Upon reading the above report and satisfying myself that all the legal requirements have been adhered to, this Court is satisfied that the applicants are suitable persons to adopt Baby **AW a.k.a CWM** and that they are also financially stable and have the means to provide and care for her.

For the above reasons, the Court hereby orders as follows:

1. **THAT the applicants be and are hereby authorized to adopt baby AW a.k.a CWM and the child be henceforth called CWA.**
2. **THAT baby AW a.k.a CWM be and is hereby presumed to be a Kenyan Citizen having been born by Kenyan parents.**
3. **THAT the Registrar-General do make the appropriate entries in the Adopted children's register in respect of the baby AW a.k.a CWM and further the Registrar of Births and Deaths do issue a Birth Certificate in respect thereof.**
4. **THAT costs be in the cause.**

Dated and Signed at Nakuru this 9th day of July, 2019.

A. K. NDUNG'U

JUDGE