



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT MURANG'A

ADOPTION CAUSE NO. 1 OF 2018

IN THE MATTER OF THE CHILDREN ACT

AND

IN THE MATTER OF AN APPLICATION FOR ADOPTION

BY GML AND ENK

AND

IN THE MATTER OF THE ADOPTION OF BABY TT

ALIAS B.M. (MINOR)

JUDGMENT

1. This is an application for a *local adoption*. The applicants are husband and wife. A certificate of marriage is annexed. The applicants are aged 46 and 43 respectively. They have lived with the minor since 7th May 2016.
2. The *ex parte* originating summons is dated 4th December 2017. It is brought under the **Children Act** and the Regulations thereunder (hereafter *the Act and Regulations*).
3. The summons is supported by the joint *statement* and separate *verifying affidavits* of the applicants together with a bundle of materials filed on even date. There is also an *original* report filed by *Change Trust*, a registered society under the Act, on 17th May 2018; and, a further report by the *Guardian ad Litem* filed on 29th October 2018.
4. The minor is a male delivered on or about 2nd August 2014. He was abandoned at birth along the banks of River Timau. The matter was reported to Nanyuki Police Station under [*particulars withheld*]. The child was admitted for treatment at Nanyuki Hospital.
5. The biological parents of the minor are thus *unknown*. On 28th August 2014, the magistrate's court at Nanyuki *committed* the minor to the care of the *New Life Home Trust*. The *committal order* is annexed.
6. I am satisfied from the materials on record that the biological parents *cannot* be traced. The child was placed in protective care through the Ministry of Labour, Social Security and Services as detailed in the report dated 26th September 2018.
7. I am also satisfied from the *Social Inquiry and Home Study Report*; the *Declaration Report* filed on 17th May 2018; and, the *Certificate* dated 9th May 2015 all issued by *Change Trust*, a registered society under the Act, that the minor is *free* for adoption.
8. I interviewed and observed the demeanour of the child. He is a healthy boy who has jelled well with the proposed adoptive parents. This was also confirmed by the answers I received *on oath* from the *guardian ad litem*.
9. The 2nd applicant testified *on oath*. Her account of the circumstances leading to the discovery of the minor was hazy. But I confirmed that she understands the *finality* and legal implications of an *adoption order*. She has lived with the minor for over *three years*.
10. Like I stated, the applicants are Kenyan citizens by birth and reside in [*particulars withheld*], Murang'a County. They have not been blessed with any children. The 1st applicant works as a [*particulars withheld*]; the 2nd applicant is a [*particulars withheld*]. Despite their meager earnings, they have met the tuition and living expenses of the minor.

11. Section 154 of the Act vests the High Court with power to make *adoption orders*. I find that it is in the *best interests* of the minor to be adopted by the applicants. I am satisfied that they have the ability to raise the child.

12. Upon the grant of the adoption order, the applicants shall assume all parental rights and duties. They shall treat the adopted child as their *own*. The adoption order is *final* and shall be binding during the lifetime of the child; and, the adopted child shall have the right to *inherit* the property of the applicants. The applicants shall not give up the child owing to unforeseen behavior or other changes in his character.

13. In the end, I am satisfied that the legal requirements for a *local adoption* have been met. I therefore grant the following orders-

- a) That the applicants be and are hereby allowed to adopt *Baby TT alias BM*;
- b) That the name of the child shall now be *SLM*;
- c) That the effective *date of birth* shall be recorded as 2nd August 2014;
- d) That the child is presumed to be a *Kenyan Citizen*;
- e) That the Registrar General is directed to enter this adoption order in the Adoption Register;
- f) The *guardian ad litem* is hereby discharged. Instead, I appoint *AWK* to be the minor's *legal guardian* in the event that the applicants are incapacitated; or, unable to exercise parental obligations;
- g) That the proceedings and judgment in this cause shall be *sealed*; and, shall *not* be accessible to any person without prior orders of the court.

It is so ordered.

DATED, SIGNED and DELIVERED at MURANG'A this 13th day of September 2019.

KANYI KIMONDO

JUDGE

Judgment read in chambers in the presence of-

The applicants (absent).

Ms. Elizabeth, Court Clerk.