



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI

ADOPTION CAUSE NO. 172 OF 2018

IN THE MATTER OF THE CHILDREN ACT NO. 8 OF 2001

AND

IN THE MATTER OF APPLICATION FOR THE ADOPTION OF

BABY MIM alias MEM alias EM alias AUA alias AU

AND

ORIGINATING SUMMONS OF AN APPLICATION FOR AN ADOPTION ORDER

TNM.....1ST APPLICANT

IWM2ND APPLICANT

JUDGMENT

1. The Applicants in the Originating Summons dated 2.11.2018 (hereafter referred to as the 1st and 2nd Applicants respectively) are seeking to be authorized to adopt Baby MIM alias MEM alias EM alias AUA alias AU to be known as MMN (hereafter referred to as the Child).
2. The Applicants are Kenyan Nationals and a married couple born on 25th December 1972 and 12th June 1977 respectively.
3. The 1st Applicant is an [particulars withheld] working as a Procurement Officer with [particulars withheld] Hospital while the 2nd Applicant is an Anesthetic Nurse at [particulars withheld] Hospital.
4. The Applicants are financially stable and physically and emotionally healthy and they have not been convicted of any criminal offence.
5. The Child was born to one KK on 23.6.2013 at Kanyakine Subcounty Hospital after an attempted criminal abortion. On 25.6.2013, the grandmother of KK went to visit her at the hospital and left with K abandoning the baby at the Hospital.
6. The matter was reported to Nkubu Police Station in OB No. 33/XX/X/2015 and subsequently admitted at Kanyakine Sub-county Hospital for five and a half months before he was placed at Nkubu Children's Office for temporary placement.
7. The Child was taken to Nkubu Law Courts where he was officially committed to New Life Home on 14.1.2016 under P&C No. 3 of 2016.
8. The Police at Nkubu wrote a letter dated 21.03.2016 confirming that investigations to trace the child's biological family did not bear any fruits.
9. The child was declared free for adoption by the case committee of Change Trust Adoption Society vide Certificate No. 00141.
10. The declaration was under **Section 159(1) (a) (i)** of the Children Act which states that:

“Abandonment may be presumed if the child appears to have been abandoned at birth or if the person or institution having care and protection of the child has neither seen nor heard from a parent or guardian of the child for a period of at least six months.”

11. The Director Children's Department filed a report and also the Guardian Ad Litem and the change Trust Adoption Society filed reports

which the court adopted.

12. I have considered the originating summons together with supporting documents. I find that the Applicants have met the threshold for being granted an adoption order.

13. I allow the Originating Summons dated 2.11.2018 in the following terms.

(i) THAT the Applicants are authorized to adopt the child and to name him MMN.

(ii) THAT the child to be presumed a Kenyan Citizen by birth.

(iii) THAT the date of birth be 23rd June 2015 and the place of birth Imenti South.

(iv) THAT the Registrar General be and is hereby directed to enter the adoption in the Adopted Children Register.

(v) THAT the Director immigration be and is hereby authorized to issue the child with a Kenyan passport.

(vi) THAT LNM be and is hereby appointed legal guardian of the child in the event of death or incapacity of the Applicants before the child attains the age of the majority.

(vii) THAT the guardian ad Litem be and is hereby discharged.

DELIVERED, DATED AND SIGNED IN OPEN COURT THIS 11TH DAY OF OCTOBER, 2019

ASENATH ONGERI

JUDGE OF THE HIGH COURT OF KENYA, NAIROBI.