



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA

AT NAIROBI

ADOPTION CAUSE NO. 174 OF 2018

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

AND

IN THE MATTER OF APPLICATION FOR THE ADOPTION OF BABY JB

VMM.....1ST APPLICANT

JK.....2ND APPLICANT

JUDGMENT

1. The Applicants herein VMM and JK (hereafter referred to as the 1st and 2nd Applicants) have filed the originating Summons dated 20.11.2018 seeking authority to adopt Baby J B (hereafter referred to as the child).
2. The Applicants are adult Kenyan Citizen born on 22.8.1996 and 21.9.1977 respectively and who got married on 12.6.2018 and both come from Kitui County and reside in Nairobi.
3. The 1st Applicant is a business man T/A S ventures with an estimated monthly income of Kshs.70,000/- while the 2nd Applicant is an office assistant at MA with a monthly gross salary of Ksh.20,000/-
4. The child was found abandoned at [particulars withheld] near Ruai Police Station on [particulars withheld] and the matter was reported to RUAI POLICE STATION vide OB No. [particulars withheld] and she was handed over to the custody of THOMAS BARNARDO HOUSE on 8.1.2016.
5. The Child was committed to THOMAS BARNARDO House Vide Care and Protection Case No. 107 of 2016.
6. RUAI POLICE STATION confirmed that no one had gone to claim the child and he was declared free for adoption by Kenya Children's Homes Adoption Society Case Committee on 18.1.2017 vide certificate Serial No. [particulars withheld] 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.”
7. The Applicants were granted foster care of the child on 7.3.2017 from THOMAS BARNARDO HOUSE after signing the foster agreement dated 7.3.2017.
8. Reports were obtained from the Director Children's Department dated 2.5.2019, the Kenya Children's Homes dated 25.6.2019 and the Guardian Ad Litem Report which is undated but filed in Court on 1.3.2019.
9. The Reports are all in favor of the Adoption. I find that the Applicants have met the threshold for adoption of the child.
10. The Consent of the biological parent is dispensed with since the child was found abandoned.
11. In the matter of **L.O (CHILD)[2012] Eklr** the court stated that :

“For the avoidance of doubt, the rights and duties of the biological parents of the child are hereby extinguished and all the parental rights, duties, obligations and liabilities of the child, J. M. M. , now vest in and shall be exercisable by and enforceable against the Applicants as the adopter parents as if the child were born in wedlock to the adopter parents and the child, to all intents and purposes, now stands to the adopter parents as a child born in wedlock and both adopter parents shall henceforth be the lawful father and mother of the child.”

12. The Originating summons dated 20/11/2018 is allowed in the following terms:

- i. THAT the Applicants be and are hereby authorized to adopt Baby J. B**
- ii. THAT the consent of the Biological parents be and is hereby dispensed with.**
- iii. THAT the child be and is hereby presumed to be a Kenyan Citizen bon on 8.1.2016**
- iv. THAT the Registrar General be and is hereby directed to enter the Adoption Order in the Adopted Children Register.**
- v. THAT the Registrar of Birth and Deaths be and is hereby directed to issue the child with a Birth Certificate**
- vi. THAT JMM be and is hereby appointed legal guardian of the child.**
- 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.