



**REPUBLIC OF KENYA**

**IN THE HIGH COURT OF KENYA AT NAIROBI**

**FAMILY DIVISION**

**ADOPTION CAUSE NO. 38 OF 2019(OS)**

**IN THE MATTER OF THE CHILDREN ACT, 2001**

**AND**

**IN THE MATTER OF **BABY M.****

**IN THE MATTER OF AN APPLICATION FOR ADOPTION BY**

**CNM.....APPLICANT**

**JUDGMENT**

1. The applicant is a single female who is aged 43 years. She was briefly married customarily from 2007 to 2010. She is a media professional with [particulars withheld]. She does not have a child of her own but on 11<sup>th</sup> October 2012 she adopted a girl child TNNM who was born on 8<sup>th</sup> December 2010. She filed this originating summons on 28<sup>th</sup> March 2019 seeking to adopt child M.

2. Child M was presumed to have been born on 31<sup>st</sup> December 2017. He was found abandoned along Ndege Road in Karen on 15<sup>th</sup> January 2018 by Ndege residents who notified Hardy Police Station. The matter was recorded under Occurrence Book No. [xxxx]. He was admitted at The Nest on 29<sup>th</sup> January 2018. On 28<sup>th</sup> February 2018 the child was committed to the Centre for care and protection by the Senior Resident Magistrate's Children's Court in **Protection and Care Cause No. 56 of 2018**. The child was declared free for adoption under **section 156(1)** of the **Children's Act** by Little Angles Network on 10<sup>th</sup> September 2018 vide Certificate Serial No. [xxxx]. Police efforts to trace the mother or relatives of the child bore no fruits.

3. On 9<sup>th</sup> May 2019 the court appointed HNM as the guardian *ad litem* and ordered that she files a report after carrying out a social inquiry on the applicant. A similar report was sought from the Director of Children Services. They filed their reports. Each recommended the adoption. The child was found to have bonded well with the applicant.

4. The applicant is a single female who seeks to adopt a male child. However, she has previously adopted another child with whom she is living and over whom she is exercising parental responsibility. I find that this satisfies the exceptional circumstances under **section 158(2)(b)** of the **Children Act**, as read with the National Adoption Committee Guidelines issued on 13<sup>th</sup> January 2010.

5. The court finds that it is in the best interests of the child to be adopted by the applicant. The applicant has demonstrated her ability to provide a conducive home and family environment in which the child will grow and develop, she 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 her. She has 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 the lifetime of the child. The child shall have the right to inherit her property. The applicant shall not be able to give up the child owing to any subsequent unforeseen behaviour or other changes in the child. The consent of the child's biological parents is dispensed with as it was found abandoned.

6. Having been satisfied that all the legal requirements for a local adoption under the **Children Act** have been met, I make the following orders:-

a) the applicant CNM is hereby allowed to adopt child M;

b) child M shall henceforth be known as MKM;

c) the child's date of birth shall be 31<sup>st</sup> December 2017, and shall be presumed to be Kenyan having been found abandoned along

Ndege Road in Karen in Nairobi County in Kenya;

d) WN is hereby appointed to be the child's legal guardian in the event of death or incapacity of the applicant 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 3<sup>TH</sup> OCTOBER 2019.**

**A.O. MUCHELULE**

**JUDGE**