



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI

ADOPTION CAUSE NO. 295 OF 2012 (O.S)

IN THE MATTER OF THE CHILDREN'S ACT NO. 8 OF 2011

IN THE MATTER OF AN APPLICATION FOR THE ADOPTION OF A BABY MJ

BY

PIM AND MWK

(APPLICANTS)

JUDGMENT

1. The Applicants PIM and MWK are in a monogamous marriage which was solemnized at All Saints Cathedral in Nairobi on 13th September, 2008. They have no children of their own. They wish to adopt a male child known as Baby MJ through the originating summons dated 13th November, 2012.
2. From the pleadings, the court gathers that the applicants PIM is an accountant by profession while MWK is a businesswoman dealing in supplies. They reside in [Particulars Withheld] Estate in Nairobi and both profess the Christian faith.
3. The records before the court indicate that the minor in this matter was found abandoned at Pumwani Hospital in Nairobi on 23rd July, 2010. The matter was reported to Kamukunji Police Station where it was booked as OB No. [...]. From the police station the child was handed over to Mama Fatuma Children's Home temporarily and on 18th August, 2010 referred to Abandoned Baby Centre for care and protection.
4. On 4th October, 2010 the Senior Resident Magistrate sitting in Nairobi committed the child vide P & C 342 of 2010 to Dagoretti Children's home. On 29th July, 2011 the District Commissioner, Kamukunji District issued a final letter dated 29th July, 2011 in which they confirmed that the biological parents of the child were not traced, nor did anyone come forward to claim the child. On 2nd March, 2012 the Applicants took the child to foster care with a view of adopting. A foster agreement was signed on 2nd March, 2012.
5. Prior to the hearing of the adoption application, Child Welfare Society of Kenya prepared and filed a report dated 9th January, 2014. They also issued a Certificate Serial No. [...] dated 9th January, 2014 declaring the child free for adoption. The guardian ad litem DMN filed a report which was favourable and recommended the adoption of the child by the Applicants.
6. An officer from the office of the Director of Children Services conducted home visits and established that the applicants are financially and emotionally capable of providing for the upkeep and education of the child. She filed a report dated 31st August, 2015 recommending the adoption for reasons that the child stands to gain from the opportunities provided by becoming the son of the Applicants and that the Applicants have fulfilled the statutory requirements.
7. This is a local adoption and from the report of the Director of Children Services the Applicants have fulfilled all the legal requirements relating to the adoption of the child. The consent of the biological parents was dispensed with since the child was abandoned at infancy and the parents could not be traced to give the consent. The child was in court during the hearing and appeared to have bonded well with the Applicants. By this adoption, the child will grow up with a sibling who is the subject of adoption proceedings in Adoption Cause No.294 of 2012.
8. From the foregoing, this court is of the considered view that it is in the best interest of the child to be adopted by the Applicants. Reasons wherefore, I allow the prayers sought in the Originating Summons dated 13th November, 2012 and Order as follows:

i. The Applicants PIM and MWK be and are hereby allowed to adopt **Baby MJ who shall henceforth be known as **BMI**.**

ii. His date of birth shall be presumed to be on 23rd July, 2010. He is presumed to have been born in Kenya in accordance with **Article 14(4)** of the **Constitution**, and the place of birth shall be Nairobi.

iii. MWM is hereby appointed the legal guardians in the event that the Applicants die, or are incapacitated by ill health.

iv. The Registrar General is directed to enter this Order in the Adopted Children Registry.

v. The Director of Immigration is hereby authorised to issue the child with a Kenyan Passport.

vi. The guardian ad litem is hereby discharged.

SIGNED DATED AND DELIVERED IN OPEN COURT THIS 21ST DAY OF NOVEMBER, 2019.

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L. A. ACHODE

HIGH COURT JUDGE

In the presence ofAdvocate for the Applicants